ILLINOIS COMMERCE COMMISSION
Docket 03-0239

****PUBLIC VERSION****

DIRECT TESTIMONY OF SCOTT FINNEY, JOHN D. SCHELL, JR AND DAVID L. TALBOTT

ON BEHALF OF
AT&T COMMUNICATIONS OF ILLINOIS, INC.,
TCG ILLINOIS AND TCG CHICAGO

ATTCI EXHIBIT 2.0

ISSUES:

INTERCONNECTION 1, 2, 3, 5, 6, 7, 8, 9
INTERCARRIER COMPENSATION 2a, 2b, 2c, 2d, 2e, 3, 4, 5, 6, 7, 8(b), 9, 12

MAY 2, 2003

I. INTRODUCTION OF WITNESSES

1. Q. MR. FINNEY, PLEASE STATE YOUR FULL NAME, PRESENT POSITION, AND BUSINESS ADDRESS.

A. My name is Scott Finney. I am a District Manager in AT&T's Local Services and Access Management for the SBC Illinois Region. My business address is 222 West Adams Street, Chicago Illinois.

2. Q. WHAT ARE YOUR DUTIES AND RESPONSIBILITIES?

A. As District Manager for AT&T's Local Services and Access Management organization, I concentrate in the area of business applications for access services that support AT&T's local and interexchange services across the SBC Illinois states. This effort entails analysis of SBC Illinois' product offerings, pricing and regulatory filings as well as support of negotiations of interconnection agreements between AT&T and SBC Illinois.

3. Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?

A. I have a BSEE from the University of Illinois, Champaign-Urbana, and have completed an M.B.A. at the Keller Graduate School, Chicago, Illinois.

4. Q. MR. FINNEY, WHAT IS YOUR EMPLOYMENT HISTORY?

A. I joined AT&T in 1998, and I have over twenty years of telecommunications industry experience, including positions with Northern Telecom, Tellabs and Ameritech.

5. Q. MR. FINNEY, HAVE YOU APPEARED AS A WITNESS IN OTHER REGULATORY PROCEEDINGS?

A. Yes. I have previously provided testimony before the Illinois Commerce Commission and I have provided testimony before the Public Utilities Commission of Ohio, the Wisconsin Public Service Commission, the Missouri Public Service Commission, the Indiana Utility Regulatory Commission and the Michigan Public Service Commission.

6. Q. MR. SCHELL, PLEASE STATE YOUR FULL NAME, PRESENT POSITION AND BUSINESS ADDRESS.

A. My name is John D. Schell, Jr. In June 2001, was employed by AT&T as a contract employee in the Local Services Access Management group in AT&T Network Services. My business address is 3033 Chain Bridge Road, Oakton, Virginia 22185.

7. Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?

A. I graduated from St. Louis University with a Bachelor of Science degree in Electrical Engineering in 1965.

8. Q. MR. SCHELL, WHAT IS YOUR EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY?

A. I joined AT&T Long Lines in 1965 as a Senior Engineer in the Engineering Department in Kansas City, Missouri. After that, I held various line and staff positions in AT&T. For example, from February 1979 to April 1984, I was District Engineer - Transmission for the

Eastern Region of AT&T. My district provided technical expertise and guidance for transmission design and maintenance for radio, cable and fiber transmission systems, for switching systems, and for special services. From May 1984 to September 1987, I was District Manager - Regulatory Support and provided technical expertise and guidance to Law and Government Affairs on issues related to AT&T's network. From October 1987 through August 1995, I was District Manager – Access Management. My group was responsible for development and implementation of policies and strategies to improve AT&T's ability to compete and to achieve AT&T's access price objectives in the Atlantic States. From September 1995 through January 1998, when I retired from ATTCI, I was District Manager - Connectivity Network Planning and my group was responsible for developing AT&T's local market infrastructure plans and managing AT&T's access arrangements with local exchange carriers and competitive access providers in the Atlantic States.

From March 1998 through May 2001, I was employed by Teligent, Inc. as manager of national contracts. I was responsible for developing and negotiating Teligent's Master Service Agreements with over 20 national/regional suppliers of local and intercity transport services, including dark fiber, and I managed Teligent's business relationships with such suppliers.

9. Q. MR. SCHELL, HAVE YOU APPEARED AS A WITNESS IN OTHER REGULATORY PROCEEDINGS?

A. Yes. From 1983 through 1993, I prepared and presented expert testimony on access charges and interconnection issues. I also provided support, analysis and testimony in connection with alternative regulation issues and was involved in negotiations and proceedings in all of the original Bell Atlantic states regarding the many issues associated with alternative regulation. I have previously testified in cases in Virginia, West Virginia, Maryland, Pennsylvania, Delaware, New Jersey and New York.

Since becoming a contract employee for AT&T, I have appeared on behalf of AT&T in Docket No. 24015 in Texas, Docket No. 000075-TP in Florida, in PSC Docket No. 02-001 (Verizon Delaware's Section 271 compliance) in Delaware, before the FCC in the Virginia Arbitration Proceeding, CC Docket No. 00-251 and in the New Jersey and Maryland Arbitrations between AT&T and Verizon, New Jersey Docket No. TO00110893 and Maryland Case No. 8882.

10. Q. MR. TALBOTT, PLEASE STATE YOUR FULL NAME, PRESENT POSITION, AND BUSINESS ADDRESS.

A. My name is David L. Talbott. I am employed by AT&T in the Local Services Access Management group in AT&T Network Services as a district manager. My business address is 3737 Parke Drive, Edgewater, Maryland 21037.

11. Q. WHAT ARE YOUR RESPONSIBILITIES IN YOUR PRESENT POSITION?

A. My current responsibilities are the development and negotiation of interconnection agreements between AT&T and incumbent local exchange carriers ("ILECs"), focusing on network interconnection and inter-carrier compensation issues.

12. Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?

A. I graduated from the University of Maryland – College Park in 1975 with a Bachelor of Arts Degree from the Communications Department.

13. Q. MR. TALBOTT, WHAT IS YOUR EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY?

A. I started with AT&T Long Lines Department in 1976. From 1979 through 1988, held various management positions in engineering related to the design and implementation of private line services. From 1988 through 1998 was responsible for developing and managing numerous business relationships between AT&T and selected Competitive Access Providers and competitive local exchange carriers ("CLECS"). These responsibilities required resolving both technical and business issues, including the interconnection of the respective networks and compensation arrangements.

During 1999, I was the Business Development Manager for AT&T's Internet Protocol Cable Telephony Project. These responsibilities included the assessment of the technical capabilities of

selected vendors and contracting the best-qualified vendors to assist AT&T in its development of Internet Protocol cable telephony technology.

14. Q. MR. TALBOTT, HAVE YOU APPEARED AS A WITNESS IN OTHER REGULATORY PROCEEDINGS?

A. Yes. I have provided testimony before: the Federal Communications Commission, the California Pubic Utilities Commission; the Connecticut Department of Public Utility Control, the Delaware Public Service Commission, the Florida Public Service Commission; the Georgia Public Service Commission; the Kansas Corporation Commission; the Michigan Public Service Commission; the New York Public Service Commission; the North Carolina Public Utilities Commission; the Public Utilities Commission of Ohio; the Texas Public Utility Commission; and the Wisconsin Public Service Commission.

15. Q. WHAT IS THE SUBJECT MATTER OF THE PANEL'S PREPARED TESTIMONY?

A. We are presenting the positions of AT&T Communications of Illinois ("ATTCI"), TCG Illinois and TCG Chicago in support of their proposed contract language for certain sections of the Interconnection and Intercarrier Compensation Articles of the new Interconnection Agreements ("ICA") between ATTCI, TCG Illinois and TCG Chicago and Illinois Bell Telephone Company ("SBC Illinois" or "SBC"). Specifically, we are addressing Issues Interconnection 1 through 3 and

5 through 9, and Issues Intercarrier Compensation ("IC") 2a, 2b, 2c, 2d, 2e, 3, 4, 5, 6, 7, 8(b), 9 and 12. We will show why SBC Illinois' proposals on these issues should be rejected.

II. OVERVIEW OF INTERCARRIER COMPENSATION AND NETWORK INTERCONNECTION PROPOSALS

16. Q. PLEASE PROVIDE AN OVERVIEW OF SBC ILLINOIS' INTERCARRIER COMPENSATION AND NETWORK INTERCONNECTION PROPOSALS.

A. A review of SBC Illinois' intercarrier compensation and network interconnection proposals for the new ICA reveals that the majority of its proposals are designed to minimize SBC Illinois' reciprocal compensation expense and limit its financial obligations for transporting traffic originating on its network. SBC Illinois attempts to do this by creating as many exceptions as possible to SBC Illinois' reciprocal compensation and transport obligations, while carefully preserving SBC Illinois' reciprocal compensation revenues for traffic originating on ATTCI's network. The impact of SBC Illinois' approach would be to retain reciprocal compensation revenues when SBC Illinois is a net receiver, e.g., for traffic exchanged with providers of Cellular Mobile Radio Service ("CMRS"), and to eliminate or minimize its reciprocal compensation obligations when it is a net payer, e.g., for traffic exchanged with ATTCI. Consistent with this, SBC Illinois has

not offered to exchange all traffic at the lower rates and rate caps established by the FCC in its *ISP Remand Order.*[1]

SBC Illinois' various reciprocal compensation proposals should be viewed in context. SBC Illinois – and its predecessor, Ameritech – is in the seventh year of a campaign to deprive CLECs of reciprocal compensation revenue for terminating calls to Internet Service Providers ("ISPs"). The first step was taken by Ameritech in 1997, when it unilaterally declared that it would stop paying reciprocal compensation to CLECs for calls to ISPs. The Commission (and all other commissions in Ameritech's five state region), and later the courts, uniformly rejected this action.

SBC Illinois then switched its focus to the FCC by seeking preemption of the states so that it could reduce its reciprocal compensation payments to CLECs. SBC Illinois prevailed; the FCC preempted the states' jurisdiction over ISP calling. However, the FCC also required that SBC Illinois could only reduce its reciprocal compensation payments if it agreed to a corresponding reduction in its lucrative revenues from wireless providers and other carriers that originate more traffic than they terminate. To this day, SBC Illinois has

[1] In the Matter of Intercarrier Compensation for ISP-Bound Traffic, Order on Remand, FCC 01-131 (April 27, 2001) ("*ISP Remand Order*" or "ISP Compensation Order").

never opted into the FCC's rate caps (and thus has not had to reduce its revenues from wireless providers).

Now, SBC Illinois has again switched its focus. SBC Illinois is back in the states, with new theories, but with the same objective: creation of an unfair and unbalanced reciprocal compensation scheme.

In these ICA negotiations, SBC Illinois has addressed this objective in a variety of ways with several different proposals. As long as at least one of its proposals is adopted by the Commission, SBC Illinois will achieve its overall objective. ATTCI, on the other hand, must win on each and every one of these issues in order to preserve the reciprocal compensation and transport retainers it is entitled to under the Telecommunications Act and FCC rules. SBC Illinois has crafted a myriad of ways to avoid its reciprocal compensation obligations. Specifically, SBC Illinois seeks to achieve this result by proposing definitions and language which inappropriately (1) reduce or eliminate its reciprocal compensation obligations, and (2) shift a significant part of its financial responsibility for transporting traffic originating on its network to ATTCI. SBC Illinois' reciprocal compensation language creates exceptions to its obligations in ways that either have no basis in the law and/or are likely to result in disputes that will allow SBC Illinois to delay payment to ATTCI and perhaps ultimately to avoid payment altogether of amounts that are

rightly due ATTCI. We believe that this approach is precisely the type of manipulation of the reciprocal compensation regime that the FCC attempted to avoid through the adoption of the rules established in the *ISP Remand Order.*[2] In that Order the FCC specifically stated:

> It would be unwise as a policy matter, and patently unfair, to allow incumbent LECs to benefit from reduced intercarrier compensation rates for ISP-bound traffic with respect to which they are net payors, while permitting them to exchange traffic at state reciprocal compensation rates, which are much higher than the caps we adopt here, when the traffic imbalance is reversed. Because we are concerned about the superior bargaining power of incumbent LECs, we will not allow them to "pick and choose" intercarrier compensation regimes, depending on the nature of the traffic exchanged with another carrier. The rate caps for ISP-bound traffic that we adopt here apply therefore *only* if an incumbent LEC offers to exchange all traffic subject to 251(b)(5) at the same rate. (¶ 89)

Moreover, SBC Illinois actually has a *legitimate* way to reduce its reciprocal compensation payments. That is, SBC Ilinois may opt into the ISP Remand Order's compensation regime. But rather than legitimately exercising its rights to reduce its reciprocal compensation payments in accordance with the option provided by the ISP Remand Order, SBC Illinois instead has chosen other contractual approaches in an attempt to avoid the payment of reciprocal compensation, while at

[2] *Id*. at ¶ 89.

the same time avoiding the coincident reduction in revenue that is associated with opting into the ISP Remand Order.[3]

For example, in Article 21, SBC Illinois' proposed language is replete with inappropriate exceptions to its reciprocal compensation obligations. First, in Sections 21.2.1, 21.2.7, 21.2.7.1 and 21.2.8 (Issue IC-2), SBC Illinois, proposes language that limits its reciprocal compensation obligations to "local calls", which, as SBC Illinois defines such calls, excludes calls to/from FX and FX-like arrangements. SBC Illinois would then establish a "Bill and Keep" regime for FX calls. Since SBC Illinois originates more traffic to ATTCI's FX-like arrangements than ATTCI originates to SBC Illinois' FX customers, SBC Illinois is a net payer of reciprocal compensation for such traffic. Thus, SBC Illinois would benefit from moving to a "Bill and Keep" arrangement for such traffic. However, we will show in this testimony, SBC Illinois' proposed language is inconsistent with the FCC's ISP Remand Order as it relates to ISP-bound traffic and should be rejected by the Commission.

Second, in Section 21.2.2 (Issue IC-3), SBC Illinois proposes contract language that ISP-bound calls will be compensated and billed

[3] If SBC Illinois does elect to opt into the compensation regime provided in the ISP Remand Order, AT&T expects that SBC would nevertheless seek to avoid its reduced reciprocal compensation

in the same manner as *similarly dialed voice local calls*. Again, SBC Illinois seeks to include language in the ICA that will allow it to dispute payment of reciprocal compensation for ISP-bound traffic. However, the FCC's rules do not limit reciprocal compensation for ISP-bound traffic to "similarly dialed voice" local calls.

Third, in Section 21.2.4 (Issue IC-4), SBC Illinois proposes language exempting Information Service traffic from compensation arrangements. Since ISP-bound traffic is one class of Information Service traffic, SBC Illinois' proposal would create yet another contract provision that would allow it to dispute payment of reciprocal compensation for ISP-bound traffic. It is ATTCI's position that since ISP-bound traffic was not subject to another form of intercarrier compensation prior to the passage of the 1996 Act, it is not subject to the exemptions established in Section 251(g) of the Act and therefore is not exempted from the reciprocal compensation requirements of Section 251(b)(5).

Finally, in Section 21.2.10 (Issue IC-6), SBC Illinois proposes language that reciprocal compensation only applies to local switched traffic that originates on one party's network and terminates through the other party's terminating switch. Here is yet another attempt by

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payments through the regulatory artifice provided by the issues raised by SBC that are described in our testimony.

SBC Illinois to escape its obligations to pay reciprocal compensation. This time, the proposed exception is based on the type of loop technology or switch utilized by the carriers. As we will show in this testimony, this exception is also without merit, since the proposed language is contrary to the FCC's finding in the ISP Remand Order that all telecommunications traffic is subject to reciprocal compensation unless the traffic falls within the exemptions established in Section 251(g) of the Act.

In addition to its proposed reciprocal compensation language, SBC Illinois also has proposed language for Network Interconnection Article 4 that is designed to further limit its legitimate transport obligations, to ATTCI's detriment. For example, SBC Illinois proposes language in Section 4.3.2.1 (Issue Interconnection 6) that would shift its reciprocal compensation obligations for transport between its Point of Interconnection ("POI") and ATTCI's switch to ATTCI when SBC Illinois' POI and ATTCI's terminating switch are not within the SBC Illinois' local calling area where the call originates. SBC Illinois takes the position that it has no financial obligation to transport its originating traffic between its POI and ATTCI's switch if its POI and ATTCI's switch are not within the SBC Illinois' local calling area where the call originates. Since, much of the time, SBC Illinois' POI and ATTCI's switch are not in the same local calling area where SBC Illinois' call

originates, the proposed language has the effect of shifting most of SBC Illinois' financial obligation to transport its traffic between its POI and ATTCI's switch to ATTCI.

It is ATTCI's position that SBC Illinois' proposed language creates an exception to SBC Illinois' financial obligation for transporting traffic originating on its network that is contrary to the FCC's rules. Specifically, SBC Illinois' language is contrary to 47 C.F.R. § 51.703(b), which provides: "A LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network."

Moreover, SBC Illinois' language is also contrary to the Calling Party's Network Pays ("CPNP") regime.[4] The fundamental principle underlying CPNP is that the calling party's carrier (network) receives the revenue from the calling party and is responsible for the costs incurred in carrying the call.

Thus, SBC Illinois has proposed network interconnection language in Article 4 that limits SBC Illinois' financial obligations for transporting its originating traffic between SBC Illinois' switch and its POI. It is ATTCI's position that SBC Illinois' proposed language

creates an exception to SBC Illinois' financial obligation for transporting traffic originating on its network in a way that is contrary to the FCC's rules as well as this Commission's Order in Docket No. 01-0614.[5]

Also, in Section 4.3.1 and related Sections 4.3.3, 4.3.3.1 and 4.3.3.2 (Issues IC-5 and 7), SBC Illinois proposes language that shifts part of SBC Illinois' financial responsibility for providing facilities on its side of the POI to ATTCI when the POI is located outside the local calling area of SBC Illinois' end user originating the call. Under SBC Illinois' proposed language, when the POI for SBC Illinois' originating traffic is located outside the local calling area, ATTCI is financially responsible and will pay SBC Illinois for the transport between SBC Illinois' end office or tandem switch and the POI, less 15 miles. In other words, SBC Illinois is taking the position that it is not obligated to transport its originating traffic beyond 15 miles. It is ATTCI's position that SBC Illinois' proposal is contrary to 47 C.F.R. § 51.703(b) which provides:

> A LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network.

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[4] In the Matter of Developing a Unified Intercarrier Compensation Regime, CC *Docket No. 01-92, Notice of Proposed Rule Making,* (Released April 27, 2001) ("Intercarrier Compensation NPRM") at ¶¶ 8-9.

[5] Illinois Bell Telephone Company, Filing to implement tariff provisions related to Section 13-801 of the Public Utilities Act, Docket No. 01-0614, June 11, 2002.

Moreover, SBC Illinois' proposed language is also inconsistent with the basic principle relating to the originating carrier's obligations to bring its originating traffic to the POI that has been affirmed in numerous FCC Orders. In fact, most recently in the Intercarrier Compensation Notice of Proposed Rulemaking ("NPRM"), the FCC confirmed that this principle is set forth in its current rules. In that NPRM, the FCC stated: "Under our current rules, the originating telecommunications carrier bears the costs of transporting traffic to its point of interconnection with the terminating carrier."[6]

Finally, it is ATTCI's position that SBC Illinois' position is contrary to this Commission's Order in Docket No. 01-0614. In that Order the Commission stated that "Until such time as the rules change, however, each party to an interconnection arrangement regardless of the number of POIs involved, shall bear the costs of getting traffic to the arrangement and shall not charge the party on the other side any of the costs."[7]

It is also instructive to note that SBC Illinois' position on this issue is essentially the same position as SBC Illinois took in Southwestern Bell's ("SWBT") interconnection arbitration with AT&T in

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[6] *Intercarrier Compensation NPRM* at ¶ 70. See also ¶ 112.

[7] Illinois Bell Telephone Company, Filing to implement tariff provisions related to Section 13-801 of the Public Utilities Act, Docket No. 01-0614, June 11, 2002, at ¶ 335.

Texas.[8] In that case, initially, the Texas PUC ruled that AT&T was responsible for all transport costs (after an initial 14 miles) for delivering SWBT's originating traffic to the AT&T designated POI, if the POI was located outside the SWBT local calling area. However, the Texas PUC subsequently acknowledged its error in light of the FCC's ruling in the Virginia Arbitration Order.[9] Nevertheless, SWBT continued to defend the Texas PUC decision. Ultimately, the matter was appealed and subsequently the district court granted AT&T's Motion for Summary Judgment. Specifically, the Court found that the Texas PUC's order violated the FCC's reciprocal compensation rule (47 C.F.R. § 51.703(b)) and AT&T's right to establish one POI per LATA.

In summary, an overview of SBC Illinois' proposals on the reciprocal compensation and network interconnection issues reveals an overall approach to attempt to implement language throughout these Articles that, from numerous angles, provides SBC Illinois with

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[8] Petition of Southwestern Bell Telephone Company for Arbitration with AT&T Communications of Texas, L.P., TCG Dallas, and Teleport Communications, Inc. Pursuant to section 252(B)(1) of the federal Communications Act of 1996, Public Utility Commission of Texas, Docket No. 22315.

[9] Federal Communications Commission, CC Docket No. 00-251, *In the Matter of the Petition of AT&T Communications of Virginia, Inc., pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc*., Memorandum Opinion and Order, released July 17, 2002. ("*Virginia Arbitration Order*")

an opportunity to avoid its legitimate obligations to pay reciprocal compensation and to avoid its responsibility for transporting its originating traffic. Each of these SBC Illinois proposals without merit, and each and every proposal should be rejected by this Commission.

III. INTERCONNECTION ISSUES

Issue Interconnection 1. Where SBC elects to subtend another LEC's tandem switch, may AT&T interconnect indirectly to SBC via such tandem? (Article 3, Section 3.2.5.1)

17. Q. PLEASE DESCRIBE ISSUE INTERCONNECTION 1.

A. There are a small number of SBC Illinois' end offices for which SBC Illinois has elected to subtend the tandem switch of another ILEC, such as Verizon. Where such circumstance exists, ATTCI should have the choice to route local and intraLATA toll traffic originating on ATTCI's network that is destined to such an SBC Illinois' end office via the other ILEC's tandem switch that the SBC Illinois' end office subtends. It is ATTCI's position that it may fulfill its obligation under §251(a)(1) of the Act by using indirect interconnection and that the interconnecting carrier may select the method of interconnection that it finds to be most efficient. It is SBC Illinois' position that such indirect interconnection is not allowable. SBC Illinois' position would require ATTCI to establish a POI at each such SBC Illinois end office even if minimal traffic volumes would not justify a dedicated trunk group to that location (i.e., direct interconnection).

18. Q. WHAT DO YOU UNDERSTAND TO BE ATTCI'S OBLIGATION UNDER THE ACT?

A. Section 251(a) of the Act provides that

> Each telecommunications carrier has the duty (1) to interconnect directly or indirectly with the facilities and equipment of other telecommunications carrier;

19. Q. WHAT IS THE DIFFERENCE BETWEEN DIRECT AND INDIRECT INTERCONNECTION?

A. Direct interconnection is the deployment of transmission facilities directly between the two networks being interconnected. Indirect interconnection is the exchange of traffic via the switch facilities (normally a tandem switch) of a third-party carrier. The switching of traffic between two carriers by a third carrier is referred to as transit service. Where SBC Illinois subtends a third carrier's (such as Verizon's) tandem, ATTCI is seeking to use that third carrier's transit service to exchange traffic with SBC Illinois.

20. Q. WHAT DOES "SUBTEND" MEAN?

A. Carriers deploy tandem switches to carry traffic between end office switches that exchange little traffic and to carry overflow volumes of traffic during peak periods when direct routes are full. Each end office switch is related to a certain local tandem for local traffic and a certain access tandem for interexchange traffic. Often, the same tandem provides both functions. Many end offices switches are related to a single tandem in a hierarchical relationship. In this end office – tandem

switch relationship, the end office switch is said to subtend the tandem. When a carrier has traffic destined to the end office of a another carrier, it may route such traffic though the tandem switch to the end office switch.

21. Q. DOES ATTCI BELIEVE IT HAS FULFILLED ITS OBLIGATION UNDER THE ACT BY DELIVERING ITS TRAFFIC TO SBC ILLINOIS VIA ANOTHER LEC'S TANDEM SWITCH?

A. Yes.

22. Q. HAS SBC ILLINOIS FULFILLED ITS OBLIGATION UNDER THE ACT BY DELIVERING ITS TRAFFIC TO ATTCI VIA ANOTHER LEC'S TANDEM SWITCH?

A. Yes, except that if ATTCI requests direct interconnection with the SBC Illinois end office, SBC Illinois is required to provide such direct interconnection to ATTCI.

23. Q. DOESN'T SBC ILLINOIS HAVE A TANDEM TO WHICH ATTCI MAY DELIVER ITS TRAFFIC?

A. Not in the case where SBC Illinois elects to have its end office subtend another carrier's tandem switch. All LECs, including SBC Illinois and ATTCI must make network engineering decisions how to deploy switching and transmission facilities. Included in these decisions is whether to deploy tandem switching. If a LEC elects not to deploy its own local tandem capability, it must subtend the local tandem of another LEC within the LATA so it can exchange intraLATA traffic with other LECs providing exchange services within the LATA.

24. Q. IS IT TECHNICALLY FEASIBLE FOR ATTCI AND SBC ILLINOIS TO EXCHANGE TRAFFIC VIA THE TANDEM SWITCH TO WHICH SBC ILLINOIS'S END OFFICE SUBTENDS?

A. Yes. In its Local Competition Order the FCC said,

> We also conclude that preexisting interconnection or access at a particular point evidences the technical feasibility of interconnection or access at substantially similar points.[10]

Today, AT&T uses indirect interconnection to exchange traffic with countless LECs. SBC is the transiting carrier for many of these indirect interconnection arrangements. The evidence of that can been seen in the ICA under Section 4.3.18, where SBC Illinois agrees to provide transit service between ATTCI and third-party carriers. Indirect interconnection between ATTCI and SBC Illinois using another carrier's tandem switch is a substantially similar arrangement; only the roles of the parties differ. In cases where SBC Illinois subtends a third-party carrier's tandem, ATTCI is seeking to use that third-party carrier's transit service to exchange traffic with SBC Illinois, rather than using SBC Illinois' transit service to exchange traffic with a third–party carrier. The technical feasibility of indirect interconnection between ATTCI and SBC Illinois is without doubt.

25. Q. DOES THE ACT REQUIRE SBC ILLINOIS TO PROVIDE INTERCONNECTION AT ANY TECHNICALLY FEASIBLE POINT USING ANY TECHNICALLY FEASIBLE METHOD?

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[10] FCC 96-325 ¶ 198.

A. ATTCI's position is that the answer to this question is yes. In its Local Competition Order, the FCC said,

> We conclude that, under sections 251(c)(2) and 251(c)(3), any requesting carrier may choose any method of technically feasible interconnection or access to unbundled elements at a particular point. Section 251(c)(2) imposes an interconnection duty at any technically feasible point; it does not limit that duty to a specific method of interconnection or access to unbundled elements.[11]

It is ATTCI's position that the FCC has specified that a new entrant should have the choice to interconnect to the incumbent network using the method that lowers the new entrant's costs.

26. Q. MUST SBC ILLINOIS ALLOW INDIRECT INTERCONNECTION UNDER ANY CIRCUMSTANCE?

A. No, but the circumstances under which SBC Illinois may be relieved of its duty are extremely limited. The FCC stated in its Local Competition Order.

> Negative network reliability effects are necessarily contrary to a finding of technical feasibility. Each carrier must be able to retain responsibility for the management, control, and performance of its own network. Thus, with regard to network reliability and security, *to justify a refusal to provide interconnection or access at a point requested by another carrier, incumbent LECs must prove to the state commission, with clear and convincing evidence, that specific and significant adverse impacts*

[11] FCC 96-325 ¶ 549.

would result from the requested interconnection or access.[12]

In its position statement for Issue Interconnection 1, SBC Illinois makes no assertion that "significant adverse impacts would result" from indirect interconnection with ATTCI. SBC Illinois cannot make such a claim, because the very act of SBC Illinois' subtending another LEC's tandem switch means that SBC Illinois accepts traffic from other carriers routed through the tandem switch it subtends. For example, all interexchange carriers would have the option to route their traffic to SBC Illinois via the other carrier's tandem switch, because SBC Illinois advertises that option in its Local Exchange Routing Guide. For SBC Illinois to say that some carriers may use this option at their choice while refusing this option to other (competing) carriers is blatantly discriminatory. The Commission should reject SBC Illinois' proposal.

27. Q. WHY DOES ATTCI FAVOR INDIRECT INTERCONNECTION IN THIS CASE?

A. This is the most efficient method for ATTCI and SBC Illinois to exchange small volumes of traffic. ATTCI and SBC Illinois have agreed that they will exchange intraLATA traffic using a one-way trunking architecture. ATTCI favors this one-way architecture because it provides each party the ability to determine for itself the most efficient

[12] *Id.* ¶ 203 (emphasis provided).

method to deliver its traffic to the other party independent of the method chosen by the other party. With respect to the issue at hand, where SBC Illinois' end office subtends another LEC's tandem switch, each party has the choice whether to route its traffic directly or indirectly to the other party. This decision should be based on an engineering analysis that looks at a number of parameters, including traffic volumes, to provide the most efficient solution, and not determined arbitrarily. In general, tandem switching is the most efficient method to route moderate volumes of traffic. Direct trunking becomes efficient only when the originating party is routing substantial volumes of traffic.

28. Q. DOES ATTCI OBJECT TO SBC ILLINOIS INTERCONNECTING TO ATTCI DIRECTLY FOR THE DELIVERY OF SBC ILLINOIS' TRAFFIC?

A. No. Again, this is the advantage provided by a one-way trunking architecture. Each party has the choice whether to route its traffic directly or indirectly to the other party. If SBC Illinois is delivering a sufficient volume of traffic to warrant a direct trunk group to ATTCI, SBC Illinois is free to place an order with ATTCI for the establishment of such a trunk group.

29. Q. WHY DOES ATTCI OBJECT TO SBC ILLINOIS' PROPOSAL FOR DIRECT INTERCONNECTION?

A. SBC Illinois' proposal is arbitrary and in many cases may produce an inefficient solution. Further, ATTCI's position on this issue does not preclude either party from directly interconnecting to the other for the delivery of its traffic where traffic volumes warrant direct interconnection. If SBC Illinois believes it can lower its interconnection costs by directly interconnecting to ATTCI, it would have the right to do so under the terms of the agreement.

30. Q. WHAT IS THE PROBLEM WITH SBC ILLINOIS'S PROPOSAL?

A. We believe that SBC Illinois is trying to avoid the payment of transit fees to tandem providers for traffic originating on SBC Illinois' network.[13] However, it is exactly these transit fees that SBC Illinois would consider in determining whether to deploy its own tandem in that serving area. If SBC Illinois has determined that it is less costly to subtend another LEC's tandem than deploy its own tandem, SBC Illinois should not be permitted to foist the costs associated with that arrangement on to other carriers.

31. Q. HOW IS SBC ILLINOIS TRYING TO SHIFT ITS COSTS TO ATTCI?

A. If the Commission were to decide in SBC Illinois' favor on this issue, ATTCI would be required to establish a POI at SBC Illinois' end office. Since ATTCI has no facilities of its own to these locations, ATTCI

[13] ATTCI would be responsible for transit fees for traffic originating on its network.

would be forced to purchase a sufficient quantity of intrastate special access facilities[14] from the tandem provider, such as Verizon, to carry both ATTCI's and SBC Illinois' one-way trunks. Under current interconnection rules, SBC Illinois would then deliver its traffic to ATTCI at the SBC Illinois end office where the traffic originated and ATTCI would carry the traffic to its switch via the special access facilities leased from the tandem provider. Even though ATTCI paid the tandem provider inflated exchange access rates for the transport facilities, ATTCI would be permitted only to recover UNE transport rates under the FCC symmetry rules.[15] As a consequence, ATTCI would be subsidizing the cost of delivering SBC Illinois' originating traffic to the ATTCI switch. ATTCI believes this would be completely contrary to the FCC's intercarrier compensation regime, "Calling Party's Network Pays", under which the originating LEC is to bear the cost to originate, transport and terminate its own traffic.

32. Q. WHAT SHOULD THE COMMISSION DO TO RESOLVE ISSUE INTERCONNECTION 1?

A. The Commission should not single out SBC Illinois end offices that subtend other carriers' tandems for special treatment. It should permit

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[14] ILECs are not required to provide access to UNE transport that extends between two incumbent LECs and ATTCI does not have its own facilities to this service area, therefore special access is the only transport option available to ATTCI.

[15] 47 C.F.R. 51-711 requires that each party's rates for transport must be symmetrical (i.e., both parties rates are based on TELRIC).

each party the flexibility to determine the least costly method to interconnect with the other party, and reject SBC Illinois' proposed additional direct interconnection requirements.

Issue Interconnection 2. Does AT&T have the right to access UNEs for the purpose of network interconnections? (Article 3, Section 3.3.2)

33. Q. PLEASE DESCRIBE ISSUE INTERCONNECTION 2.

A. Where ATTCI has not deployed its own network facilities, it may wish to lease facilities from SBC Illinois for network interconnection. These interconnection facilities would be used to provision local network interconnection trunks between the ATTCI and SBC Illinois switches for the exchange of traffic between the parties. It is ATTCI's position that, as an interconnecting carrier, it may choose any method of technically feasible interconnection and that SBC Illinois may not restrict ATTCI's right to access UNEs for the purpose of network interconnection. It is SBC Illinois' position that ATTCI may lease facilities for network interconnection from SBC Illinois' special access tariff, but ATTCI does not have the right to use UNEs for such interconnection.

34. Q. WHAT DO YOU MEAN BY INTERCONNECTION FACILITIES?

583 **A.** Each carrier is responsible for delivering its originating traffic to the
584 POI.[16] ATTCI can implement such interconnection by either self-
585 provisioning the facilities from its switch to the POI, or by leasing the
586 facilities from SBC Illinois or third parties. It is these facilities from the
587 originating carrier's switch to the POI that are characterized as
588 interconnection facilities.[17] This issue involves the rates that ATTCI
589 should pay SBC Illinois if it leases facilities from SBC Illinois to deliver
590 its traffic to the designated POI.

591 **35. Q. DOES SBC ILLINOIS' POSITION HAVE ANY LEGAL SUPPORT?**

592 **A.** It is ATTCI's position that SBC Illinois' position does not have legal
593 support, and in fact, violates its obligation to provide unbundled
594 network elements. Such § 251(c)(3) of the Act, states that an ILEC
595 has the "duty to provide, to any requesting telecommunications carrier
596 for the provision of a telecommunications service, *nondiscriminatory*
597 *access to network elements on an unbundled basis at any technically*
598 *feasible point* on rates, terms and conditions that are just, reasonable
599 and nondiscriminatory." (emphasis added)

600 With respect to interoffice facilities specifically, the FCC has
601 stated in both the *Local Competition Order* and more recently in the

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[16] The Point of Interconnection, or POI, is the location where the parties exchange their traffic.

[17] Interconnection facilities are the physical transmission channels that transport traffic between the ATTCI and SBC Illinois switches that are used for local and intraLATA toll traffic.

UNE Remand Order that ILECs "must provide interoffice transmission facilities on an unbundled basis to requesting carriers."[18] The FCC stated in the *UNE Remand Order*:

> Although the record indicates that competitive LECs have deployed transport facilities along certain point to point routes, the record also demonstrated that self provisioned transport, or transport from non-incumbent LEC sources is not sufficiently available as a practical economic or operational matter to warrant exclusion of interoffice transport from an incumbent LECs unbundling obligations at this time. *(UNE Remand Order* at ¶321.)

Thus, ATTCI believes it is within its rights to request that SBC Illinois provide interoffice interconnection facilities on an unbundled basis for ATTCI's use in delivering its traffic to the designated POI.

36. Q. WHAT ABOUT THE PRICE DIFFERENTIAL BETWEEN UNE RATES AND ACCESS RATES?

A. It is ATTCI's position that the Act specifies that CLECs can interconnect with and use the ILEC's network at prices based upon the cost of providing interconnection or network elements.[19] SBC Illinois nevertheless proposes to charge access rates that exceed the economic cost of such interconnection facilities. The FCC has recognized that access charges are not based on forward looking

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[18] *Implementation of Local Competition Provisions of the Telecommunications Act of 1996*, CC Dkt. 96-98, Third Report and Order and 4th Further Notice of Proposed Rulemaking, ¶ 321, (Rel. Nov. 5, 1999) (UNE Remand Order); *Local Competition Order* at ¶ 439 et. sec.

[19] 47 U.S.C. ¶252(d)(1).

economic cost, but are generally well above economic cost.[20] The price differential between SBC Illinois' access rates and UNE rates for DS-1 and DS-3 facilities for Illinois is significant. A sample comparison of the special access and UNE rates for DS-1 and DS-3 facilities is provided in AT&T Exhibit 2.1.

37. Q. HAS THE FCC RECENTLY ADDRESSED A SIMILAR ISSUE?

A. Yes. In the Virginia Arbitration,[21] the ILEC, Verizon, maintained that, in order to purchase interoffice transport at UNE prices, AT&T must have a collocation arrangement at that tandem or end office. Otherwise, AT&T had to purchase interoffice transport from Verizon's special access tariff. The FCC found that

> Verizon has no basis for requiring AT&T to order dedicated transport from its access tariffs.[22] Although Verizon lists several ways AT&T could obtain "interconnection transport," we reject any suggestion that the availability of such choices should therefore limit AT&T's ability to obtain dedicated interoffice facilities on an unbundled basis. The Commission has rejected similar arguments, concluding that incumbent LECs may not avoid the 1996 Act's unbundling and pricing

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[20] *First Report and Order, Access Charge Reform,* 12 FCC Rcd 15982, ¶¶ 258-84. (1996).

[21] In the Matter of Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection, *CC Docket No. 00-251, Memorandum Opinion and Order,* (Rel. July 17, 2002) ("Virginia Arbitration").

[22] We note in this regard that ATTCI is seeking to purchase UNE transport, not access services. *See Local Competition First Report and Order,* 11 FCC Rcd at 15598-99, ¶ 191, 15679-80, ¶ 358.

requirements by offering tariffed services that might qualify as alternatives.[23]

38. Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE INTERCONNECTION 2?

A. The Commission should find that ATTCI has the right to use UNEs for network interconnection facilities and should adopt ATTCI's proposed language in Section 3.3.2 of the Agreement.

Issue 3. What terms apply to AT&T's intra-building interconnection to SBC-Illinois? (Article 3, Section 3.3.3)

39. Q. WHAT IS INTRA-BUILDING INTERCONNECTION?

A. Intra-building interconnection is a method of interconnection where both parties have broadband facility terminals within a building and thus can interconnect in that building using intra-building cable. Such cable could be a DS-1 cable, fiber optic cable or another technically feasible interface, but with respect to ATTCI, is most frequently a DS-3 coaxial cable. Most frequently, intra-building interconnection would be accomplished where SBC Illinois and ATTCI each have central office space within the same building. Although it would be technically feasible to have intra-building interconnection at some customer locations, such as POP hotels and large multi-tenant buildings, ATTCI would not expect to make significant use of intra-building interconnection at such locations.

[23] *UNE Remand Order*, 15 FCC Rcd at 3855, ¶ 354; *Local Competition First Report and Order*, 11

40. Q. PLEASE DESCRIBE ISSUE INTERCONNECTION 3.

A. Resolution of this issue will determine if ATTCI has a right to designate intra-building interconnection where it chooses and, if deployed, what terms would apply to the installation and use of the cable. It is ATTCI's position that (1) because intra-building cable is a technically feasible method of interconnection, SBC Illinois is required to provide such interconnection under the terms of the Act, (2) ATTCI should have sole use of the cable if it bears the full cost of the installation and maintenance of the cable, and (3) SBC Illinois may not assess additional charges, such as entrance facility charges, to ATTCI for the function provided by the intra-building cable. It is SBC Illinois' position that intra-building cable interconnection should be subject to their mutual agreement, providing SBC Illinois the opportunity to extract additional payment from ATTCI or simply to refuse to provide the interconnection because it is not in SBC Illinois' interest to do so.

41. Q. IS IT ATTCI'S POSITION THAT INTRA-BUILDING INTERCONNECTION IS SUPPORTED BY THE ACT?

A. Yes. ATTCI believes the language it proposes is consistent with its right to interconnect at any technically feasible point. The Act states that ILECs must interconnect "at any technically feasible point within

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FCC Rcd at 15640-44, ¶¶ 277-88.

the [incumbent] carrier's network."[24] ATTCI believes that interconnection at any technically feasible point is a fundamental right of the CLECs – it is not an "accommodation" provided at the discretion of SBC Illinois. Further, there is nothing in the Act that prohibits interconnection via a DS-3 coaxial or other fiber optic cable. For this reason, ATTCI's proposed contract language on interconnection via cable should be included in the ICA.

42. Q. IS INTRA-BUILDING CABLE TECHNICALLY FEASIBLE?

A. Yes. The FCC said in the Local Competition Order[25] that the existence of a certain type of interconnection demonstrates that it is technically feasible. This arrangement exists between and AT&T and Qwest at a number of locations.

Moreover, intra-building cable is the same physical arrangement used by SBC to provide an entrance facility between AT&T space and SBC space where the two parties each have a wire center in the same building.

43. Q. IS IT ATTCI'S POSITION THAT THE ACT REQUIRES SBC ILLINOIS TO PROVIDE INTERCONNECTION AT ANY TECHNICALLY FEASIBLE POINT USING ANY TECHNICALLY FEASIBLE METHOD?

A. Yes. In its Local Competition Order, the FCC said,

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[24] 47 U.S.C. § 251(c)(2)(B).

> We conclude that, under sections 251(c)(2) and 251(c)(3), any requesting carrier may choose any method of technically feasible interconnection or access to unbundled elements at a particular point. Section 251(c)(2) imposes an interconnection duty at any technically feasible point; it does not limit that duty to a specific method of interconnection or access to unbundled elements.[26]

It is ATTCI's position that the FCC has specified that a new entrant should have the choice to interconnect to the incumbent network using the method that lowers the new entrant's costs.

44. Q. HAS THE FCC ADDRESSED THIS ISSUE?

A. Yes. In the Virginia Arbitration, Verizon took substantially the same position in that arbitration that SBC Illinois is taking in this arbitration – that intra-building interconnection should be subject to the mutual agreement of the parties. However, the FCC decided this issue in AT&T's favor. It said,

> We reject Verizon's arguments that AT&T's language allowing it to interconnect at any technically feasible point, including customer premises (*i.e.,* intra-building interconnection), discriminates against other carriers. Technically feasible interconnection is the right of every competitive entrant. The fact that AT&T in some instances, by the development of historical events, maintains wire centers on the same premises as Verizon

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[25] FCC 96-325.

[26] FCC 96-325 ¶ 549.

hardly renders its proposed language discriminatory against other carriers.[27]

45. Q. SHOULD ATTCI HAVE SOLE USE OF THE INTRA-BUILDING CABLE?

A. Yes. If ATTCI, as it proposes in its contract language, bears the full cost to provide, install and maintain the intra-building cable arrangement, the cable should be dedicated to ATTCI's use. Of course, if ATTCI and SBC Illinois agreed to share the cost for a certain intra-building arrangement, then the parties should share the use of the cable. Such agreements can and should be made on an individual case basis and should not prejudice ATTCI's right to interconnect with SBC Illinois via intra-building cable at other times or at other locations.

46. Q. WHY WOULD SBC ILLINOIS OBJECT TO INTRABUILDING INTERCONNECTION?

A. Where intra-building interconnection is feasible, it permits ATTCI to avoid the purchase of a SBC Illinois entrance facility, because ATTCI would provide that functionality for itself. An entrance facility is the rate element of UNE dedicated transport for the portion of dedicated transport between the requesting carrier's location and the SBC Illinois wire center. Whereas most entrance facilities provided by SBC Illinois may be several miles in length, in the case where ATTCI and SBC Illinois both have wire centers in the same building, the entrance facility

[27] DA 02-1731.

is simply a connection between floors. The cost of a DS-3 entrance facility in Illinois is $686.47 (for Zone 1) per month.[28] We would expect that SBC Illinois would much prefer to provide a short length of cable between floors and continue to collect $686.47 per month than have ATTCI self-provision that functionality.

47. Q. SHOULD SBC ILLINOIS BE PERMITTED TO ASSESS AN ENTRANCE FACILITY CHARGE WHERE ATTCI INTERCONNECTS TO SBC ILLINOIS USING INTRA-BUILDING CABLE?

A. No. ATTCI's proposed contract terms specify that ATTCI is solely responsible for the costs of the arrangement and that SBC Illinois bears no such costs. It would be completely unfair for ATTCI to bear the cost of the arrangement and then compensate SBC Illinois as if SBC Illinois had borne the costs and provided the arrangement itself.

48. Q. WHAT SHOULD THE COMMISSION DO TO RESOLVE ISSUE INTERCONNECTION 3?

A. The Commission should adopt ATTCI's proposed contract language for Article 3, Section 3.3.3, including its subsections.

Issue Interconnection 5. AT&T Issue: Does AT&T have the right to establish a POI at any technically feasible point on SBC's network and does each originating party have the obligation to transport its traffic to the POI or should the agreement provide certain exemptions from the Act that relieve SBC from its obligation to interconnect at any technically feasible point and to transport its traffic from its originating switch to the POI? (Article 4, Section 4.3.1, including its subsections)

[28] SBC Illinois Ameritech Illinois Tariff 20, Part 19, Section 12, sheet 32 - effective 4/18/1998.

SBC Issue: Are there reasonable limitations on AT&T's right to interconnection with SBC-Illinois free of any charge? For instance, is AT&T entitled to receive expensive interconnection, FX interconnection, and interconnection outside SBC's franchised territory free of charge as discussed further in issues 6-9. (Article 4, Section 4.3.1, including its subsections)

49. Q. PLEASE DESCRIBE THE GROUP OF ISSUES INTERCONNECTION 5 THROUGH 9.

A. The two most significant aspects of physically interconnecting a CLEC network to an ILEC network are: (1) what rights does the CLEC have to select the point of interconnection to the ILEC network and (2) how will the costs of the network interconnection be borne by the two carriers. As we will explain, these two matters are critically inter-related and cannot be treated or considered independently. SBC Illinois' creation of arbitrary limits and restrictions on these fundamental interconnection principles, as laid out in Issues Interconnection 5, 6, 7, 8 and 9, go the heart of ATTCI's right to select the point of interconnection to SBC Illinois' network and the obligation of each party to compensate the terminating carrier for transport it provides for the termination of the other party's traffic. Of all network interconnection issues, these five issues, taken together, are among the most serious threats to local competition.

50. Q. ARE ISSUES INTERCONNECTION 6 THROUGH 9 RELATED TO ISSUE INTERCONNECTION 5?

A. Yes. Issues interconnection 7 through 9 all deal with the exact same matter. If the Commission adopts ATTCI's position on issue

Interconnection 5, issues 7 through 9 become moot[29]. In spawning Issues Interconnection 6 through 9, SBC Illinois seeks to win Issue 5 by proposing a series of circumstances that would undercut a decision in ATTCI's favor on Issue Interconnection 5. ATTCI believes that the law and Commission precedent is very clear on Issue Interconnection 5 and it should be unnecessary for the Commission to decide the same issue five times. Nevertheless, our testimony below addresses each of these issues individually.

51. Q. WHAT IS ATTCI'S GENERAL POSITION ON THE DISPUTE REFLECTED IN ISSUES INTERCONNECTION 5-9?

A. First, that ATTCI, not SBC Illinois, has the right to select the point or points of interconnection ("POI") to SBC Illinois' network. Second, that the originating carrier is financially responsible for delivering its traffic to its POI and to compensate the terminating party for the transport (if any) and termination its provides.

52. Q. WHAT IS SBC ILLINOIS'S GENERAL POSITION?

A. That ATTCI should locate a POI and an end office switch within each SBC Illinois local calling area, or compensate SBC Illinois as if ATTCI had done so.

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[29] Issue Interconnection 6 is slightly different than Issues 7, 8 and 9. Issue 6 deals with SBC Illinois' obligation to compensate ATTCI for transport that ATTCI provides on its side of the POI for traffic originating on SBC Illinois' network, whereas Issues 7, 8 and 9 deal with SBC Illinois' desire to charge ATTCI for transport that SBC Illinois provides for its traffic on its side of the POI.

53. Q. HOW HAS THIS OVERALL ISSUE COME ABOUT?

A. ATTCI and SBC Illinois have deployed substantially different network architectures to serve local exchange customers. Each party desires to have network interconnection terms that benefit its network architecture.

SBC's network has been deployed over the past hundred years to provide ubiquitous service across its certificated territory. We would describe SBC's network as a multi-layer or tiered network. This hierarchical or layered network was deployed when there were significant distance limitations on local loop technology, resulting in many switches deployed in the neighborhoods. Therefore, SBC Illinois has many end office switches spread out over its service area and installed in the neighborhoods populated by its customers. These end office switches are interconnected by an overlaying network of tandem switches. When certain volume levels are achieved and it is cost effective, SBC Illinois establishes high usage trunk groups that directly link end office switches (bypassing the tandems). SBC Illinois' network architecture is depicted in AT&T Exhibit 2.2 to our testimony. As I understand it, SBC Illinois finds the use of its tandem switches to be the least costly method of interconnecting many end offices until certain traffic thresholds are achieved between two end offices, and

only then is it more efficient for SBC Illinois to directly connect the two end offices.

Facilities-based CLECs, such as ATTCI, which enter a market with few or no customers, are faced with the considerable challenge of how and where to profitably deploy transport facilities and switching systems, considering the relatively low density of customers and traffic volume forecasted over the planning period. One area of technological advancement that has made facilities-based market entry a possibility is the substantial decrease in the cost of high-capacity fiber-optic facility systems. In fact, some economists assert that distance has become an irrelevant factor in telephony markets and that this trend will also eventually affect local telephony[30]. Accordingly, ATTCI's switches are deployed to take advantage of the efficiencies of today's transport technology. This allows ATTCI to reduce somewhat the negative economics associated with deploying a network for an initially small customer base.

Currently, ATTCI has a menu of options that it can use to economically connect end users located relatively far from a switch. These options include: (1) high capacity fiber optic rings to commercial buildings and multiple dwelling units; (2) hybrid fiber coax plant being

[30] See, e.g., Testimony of Lee L. Selwyn GA PSC Docket No. 13542-U.

deployed by ATTCI's formerly-affiliated cable TV properties; (3) fixed wireless technology such as 38 gHz systems, (4) UNE loop resale through ATTCI collocation in SBC end offices, and (5) dedicated high-capacity facilities (in some cases using special access services purchased from SBC but more appropriately through combinations of UNEs). Due to the very high initial cost of switching platforms as compared to the lower incremental cost of high-capacity facility systems, ATTCI has chosen to deploy fewer switches and more transport on the end-user side of the switch. Even where ATTCI has determined the need for multiple switches within a LATA, they are often collocated within the same building to reduce real estate costs and to rely upon centralized technical staff. ATTCI's network architecture is depicted in ATTCI Exhibit 2.3 to our testimony.

Consistent with ATTCI's architecture, there are certain LATAs in which ATTCI has not deployed a switch physically within the LATA. ATTCI has agreed that in such cases it will establish at least one physical point of presence (POP) and one POI[31] within the LATA, and ATTCI will provide all of the facilities (for both originating and terminating traffic) between its switch and the POP. Where ATTCI has not deployed a switch within a LATA, the POP will be treated as if it

31 As will be discussed in more detail later in our testimony, the POI is the point at which the two networks are interconnected for the mutual exchange of traffic.

were an ATTCI switch (i.e., ATTCI has virtually extended its switching functionality into the LATA to the POP). The ATTCI architecture, therefore, provides a switch (or switching presence) in every SBC LATA to which ATTCI offers local services.

Although ATTCI's and SBC's networks are similar in the sense that the two networks cover comparable geographic areas, a key distinction between the two networks is that while SBC Illinois deploys tandems to interconnect multiple switches spread throughout the geographic area and then grows into dedicated high usage trunk groups between such switches, ATTCI deploys a single switch combined with long transport on the end-user side of the switch, because that combination is less costly than adding a new switch in each part of a market.

As we will explain in more detail below, SBC Illinois' point of interconnection proposal requires ATTCI to adapt its network design to SBC Illinois' network design. This proposal would result in ATTCI losing the benefits of its efficient network architecture and incurring substantially higher network costs. Also, SBC Illinois' proposal would shift to ATTCI the transport costs that SBC Illinois is required to bear under the Act. ATTCI's proposal, on the other hand, is neutral to network design in that it requires each party - regardless of network

design - to be responsible for all of the costs of its own originating traffic.

54. Q. CAN YOU EXPLAIN HOW THIS ISSUE RELATES TO THE ISSUE OF ESTABLISHING A POI?

A. Yes. In order to adequately address this issue, which involves a dispute about who should bear what portion of the costs of transporting local traffic between the ATTCI and SBC Illinois networks, it is necessary to clarify certain definitions relating to POI, interconnection and reciprocal compensation. If these terms are not appropriately defined, then the rights and obligations associated with transporting traffic between the two networks cannot be understood.

The terms interconnection and POI are integrally related to the issue of transport obligations. Interconnection is the physical linking of two networks for the mutual exchange of traffic.[32] POI is the *location* where the parties mutually exchange their traffic. The originating party can bring its traffic to a POI for interconnection in a variety of ways. It can provide the facilities itself, lease interconnection facilities from third parties, or lease interconnection facilities from the other party. In any event, the leased facilities are part of the originating party's network

[32] In the Matter of Implementation of the Local Competition Provision in the Telecommunications Act of 1996, *First Report and Order*, 11 FCC Rcd. 15499, 172, 176 (1996) ("Local Competition Order").

and the POI is still the point at which the two networks are interconnected for the mutual exchange of traffic.

55. Q. PLEASE EXPLAIN THE SIGNIFICANCE OF THE POI.

A. Each carrier is responsible for delivering its originating traffic to the POI. Between the originating customer and the POI, the costs of delivery are identified as the origination costs, and the facilities that bring the traffic to that point are the interconnection facilities.[33] From the POI to the terminating customer, the other carrier must assume operational responsibility to take that traffic to the designated end user and the originating carrier must pay the terminating carrier for the costs of that carriage. These costs associated with the terminating side of the POI are generally known as the termination costs. If the call is local, the originating carrier compensates the terminating carrier for that delivery pursuant to reciprocal compensation obligations which are set forth in Section 251(b)(5) of the Act.[34] If the call is not a local call, then access charges rather than reciprocal compensation charges apply. The issue I am discussing involves the carrier's obligations with respect to local calls.

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[33] Interconnection facilities are the physical transmission channels that transport traffic between the ATTCI and SBC Illinois switches that are used for local and intraLATA toll traffic.

[34] Reciprocal compensation is broken down into two parts – the transport portion which is transmission and any necessary tandem switching from the POI to the terminating carrier's end office switch that directly serves the called party; and the termination portion, which involves the

Thus, by selecting a particular POI location, a carrier affects both the amount of reciprocal compensation it pays the other party, and its own network costs.

56. Q. HOW IS THE POI LOCATION SELECTED?

A. The Act and FCC orders provide that new entrants may interconnect at any technically feasible point. Specifically, FCC Rule 51.305(a)(2) specifies that an ILEC is to allow interconnection by a CLEC at any technically feasible point. In its *Local Competition Order*, the FCC stated:

> The interconnection obligation of section 251(c)(2), discussed in this section, allows competing carriers to choose the most efficient points at which to exchange traffic with incumbent LECs, thereby lowering the competing carriers' costs of, among other things, transport and termination of traffic.[35]

Further the FCC stated in the *Local Competition Order*:

> Section 251(c)(2) does not impose on non-incumbent LECs the duty to provide interconnection. The obligations of LECs that are not incumbent LECs are generally governed by sections 251(a) and (b), not section 251(c). Also, the statute itself imposes different obligations on incumbent LECs and other LECs (i.e., section 251(b) imposes obligations on all LECs while

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switching of the traffic at the terminating carrier's end office switch or equivalent facility and delivery of that traffic to the called parties premises. See 47 C.F.R. 51.701(c)(d).

[35] *Local Competition Order* at ¶ 172 (emphasis added).

964 section 251(c) obligations are imposed only on
965 incumbent LECs).[36]

966 **57. Q. IS IT ATTCI'S POSITION THAT THE ACT ENTITLES THE CLEC TO**
967 **SELECT A SINGLE POI?**

968 **A.** Yes. It is ATTCI's position that Section 251(c)(2) gives the CLEC the
969 right to select where it wants to interconnect, which enables it to
970 establish, if it wishes, as few as one POI per LATA. This rule and
971 policy that allows a single switch presence per LATA enables new
972 entrants to grow their business economically without having to
973 duplicate the ILEC's existing network.

974 **58. Q. CAN AN ILEC ALSO SELECT ITS POI?**

975 **A.** No, it is ATTCI's position that is a right reserved for the CLECs, not the
976 ILECs, and that there is no concurrent right for the ILEC to select an
977 interconnection point or POI.

978 **59. Q. WHAT POI LOCATIONS ARE ATTCI AND SBC LLINOIS USING**
979 **TODAY?**

980 **A.** First it should be understood that SBC Illinois and ATTCI currently
981 utilize, and have agreed to continue using, one-way trunks to
982 exchange local and intraLATA toll traffic. AT&T has found that one-
983 way trunks provide several advantages to AT&T over two-way trunking

[36] *Id*. at ¶ 220.

arrangements[37], but a major advantage is that one-way trunks enable each party to establish POIs for its traffic independent of the other party's POI selection.

That is exactly what has occurred in Illinois. SBC Illinois and ATTCI have each established different POIs for its respective traffic. SBC Illinois has deployed its own network facilities to each ATTCI switch location and located its POI for its one-way trunks (that carry traffic originating on SBC Illinois' network) at each ATTCI switch location. ATTCI has either deployed its own network facilities or leased facilities from SBC Illinois to each SBC Illinois tandem switch location and to numerous SBC Illinois end offices and ATTCI has located its POI for its one-way trunks (that carry traffic originating on ATTCI's network) at each of those locations. There may be exceptions to this architecture for either party here and there, but they are not material.

As we discuss in greater detail later in this testimony, the fact that SBC Illinois has a POI for its traffic at each ATTCI switch center would, under SBC Illinois' proposed contract language, allow SBC

[37] Regardless of ATTCI's experience, the current rules permit the CLEC to designate whether the parties will interconnect under a one-way or two-way trunking arrangement. *Local Competition Order*, at ¶ 219.

Illinois to unlawfully charge ATTCI for most of the trunking facilities that carry SBC Illinois' originating traffic.

60. Q. HAS THE FCC PREVIOUSLY ADDRESSED THIS ISSUE?

A. Yes. The FCC has consistently applied the Act to prevent ILECs from increasing CLEC's costs by requiring multiple points of interconnection. In its order approving SWBT's application for interLATA authority in Texas, the FCC stated that this provision gives competing local providers the option to interconnect at as few as one technically feasible point within each LATA.[38] The FCC stated:

> New entrants may select the most efficient points at which to exchange traffic with incumbent LECs, thereby lowering the competing carriers' cost of, among other things, transport and termination.

The FCC also stated:

> Section 251, and our implementing rules, require an incumbent LEC to allow a competitive LEC to interconnect at any technically feasible point. This means that a competitive LEC has the option to interconnect at only one technically feasible point in each LATA. (citing *Local Competition Order* ¶¶ 172, 209).[39]

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[38] Memorandum Report and Order, *Application by SBC Illinois Communications Inc., Southwestern Bell Telephone Company, And Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas*, CC No. 00-65, ¶ 78 (rel. June 30, 2000) (hereinafter *"Texas 271 Order")*.

[39] The FCC made a similar pronouncement in a January 2001 Order granting in region interLATA authority to SWBT for Kansas and Oklahoma. *Memorandum and Order*, FCC 01-29, Joint Application by SBC Illinois Communications Inc., Southwestern Bell Telephone Company and

In an interconnection dispute in Oregon, the FCC intervened as *amicus curiae* and urged the court to reject US West's argument that the Act requires a competing carrier to "interconnect in the same local exchange in which it intends to provide local service."[40] The FCC's brief in that case stated:

> Nothing in the 1996 Act or binding FCC regulations requires a new entrant to interconnect at multiple locations within a single LATA. Indeed, such a requirement could be so costly to new entrants that it would thwart the Act's fundamental goal of opening local markets to competition. *Id.* at 20.

The FCC based its argument on both statutory and policy grounds.

Most recently, the FCC addressed the principles relating to a CLEC's right to select a POI and the obligation of the originating carrier to pay for its transport costs to the POI, in a Section 251 arbitration case before the Wireline Competition Bureau at the FCC.[41] In that case, Verizon proposed language that required AT&T, in most instances to deliver its traffic all the way to the Verizon end office - or

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Southwestern Bell Communications Services, Inc. d/b/a/ Southwestern Bell Long Distance for Provision of In-region, interLATA service in Kansas and Oklahoma, CC Docket No. 00-217 (January 22, 2001)("Kansas and Oklahoma Order").

[40] Memorandum of the Federal Communications Commission as Amicus Curiae, at 20-21, *US West Communications Inc., v. AT&T Communications of the Pacific Northwest, Inc., et al.* (No. CV 97-1575-JE) (D. Or. 1998).

[41] The Wireline Competition Bureau of the FCC preempted the jurisdiction of the Virginia State Corporation Commission to arbitrate disputes between Verizon Virginia, Inc. and WordCom, Inc., Cox Virginia Telecom, Inc., and AT&T Communications of Virginia, Inc. in a consolidated docket. *Petition of*

to what Verizon described as a "geographically relevant interconnection point" (what Verizon terms a "VGRIP"). If AT&T didn't establish a POI at every Verizon end office in most instances, then Verizon proposed that AT&T pay Verizon for the transport costs that Verizon incurred to deliver its originating traffic from its originating switch to AT&T's switch or POI. AT&T's proposal, on the other hand, provided that AT&T (not Verizon) has the right to designate a single POI per LATA at any technically feasible point, and that Verizon must be financially responsible for the transport of its traffic to that POI.

The FCC rejected Verizon's proposal and approved AT&T's language. It found that AT&T's language more closely conformed to the FCC rules and existing precedent than did Verizon's VGRIP proposal. Specifically, the FCC found the AT&T proposal was more consistent with Rule 51.703(b) prohibiting a LEC from charging a CLEC for traffic originating on the LECs network and Rule 51.305(a)(2) allowing a CLEC to connect at any technically feasible point (paras. 52, 53). [42] Moreover, this finding did not include an exception for "virtual FX" traffic or any of the other circumstances which SBC Illinois posits

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[42] *WorldCom, et al., Memorandum Opinion and Order*, CC Docket Nos. 00-218, 00-249, 00-251, DA 02-1731 (rel. Jul. 17, 2002) ("*Virginia Arbitration Order*"), ¶¶ 52-53.
A recent Federal District Court decision in Texas followed the FCC's guidance in this regard when it reversed a decision of the Texas Commission that required AT&T to shoulder certain originating transport obligations of SWBT whenever the POI chosen by AT&T was located outside of a SWBT local exchange. *Southwestern Bell Telephone Company v. Texas Public Utility Comm'n, et al.*, 2002 U.S. Dist. Lexus 26002, CA No. MO-01-CA-045, (W.D.TX., Dec. 19, 2002).

under Issues 6 through 9. Instead, the FCC applied the rules across the board.

61. Q. HAS SBC ILLINOIS RAISED THE ISSUES CONTAINED IN SECTION 4.3 IN ILLINOIS PROCEEDINGS BEFORE?

A. Yes. Indeed, this exact same issue was raised by SBC Illinois during Docket No. 01-0614. In that docket, SBC Illinois sought to place limitations and restrictions on CLECs' fundamental right to select POIs and to opt for as few as a single POI per LATA. SBC Illinois also attempted to assess "extra" charges to CLECs for transport of SBC Illinois originated traffic to a POI located outside the SBC Illinois local calling area. The Commission however, rejected SBC Illinois' position. The Commission noted that:

> Under Federal law, an originating carrier may not charge another telecommunications carrier for local traffic carried to another LEC's system (47 USC 51.703(b)). Ameritech admitted this would happen under its proposal.[43]

The Commission went on to note that:

> until such time as the rules change, however, each party to an interconnection agreement regardless of the number of POIs involved, shall bear the cost of getting traffic to the arrangement and shall not charge the other party on the other side any of the costs. (Id. at ¶336)

62. Q. HAS THIS ISSUE RECENTLY BEEN ADDRESSED BY THE COURTS?

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[43] Illinois Bell Telephone Company, Filing to implement tariff provisions relating to Section 13-801 of the Public Utiilties Act, Docket No. 01-0614, June 11, 2002, at ¶333.

A. Yes. SBC and AT&T have executed interconnection agreements in all states served by SBC as the incumbent LEC. In Texas, SBC prevailed in arbitration before the Texas PUC on this very issue – that is SBC sought to charge AT&T for transport wherever the POI was outside the SBC legacy local calling area. In that case the Texas PUC required that AT&T, rather than SBC, pay the cost of delivering SBC's originating traffic to the POI whenever that transport exceeded 14 miles.

AT&T appealed the Texas PUC decision to the United States District Court for the Western District of Texas and in December, 2002 the court found that

> AT&T has the statutory right under the Act to select the location of a technically feasible point of interconnection, and that the regulations of the federal Communications Commission ('FCC"), including in particular 47 C.F.R. § 51-703(b) prohibits SWBT from imposing charges for delivering its "local" traffic originating on its network to the point of interconnection selected by AT&T even when that point is outside of a local calling area of SWBT.[44]

Although less than four months have passed since the United States District Court rejected SBC's transport charges scheme, and less than a year has passed since this same position was rejected by the Illinois Commission, SBC continues to pursue the same approach.

[44] MO-01-CA-045.

This Commission should again reject SBC Illinois' proposals to shift its costs to the new entrant.

63. Q. YOU STATED THAT THE COSTS OF INTERCONNECTION FACILITIES ARE TO BE BORNE BY THE ORIGINATING CARRIER. WHAT SUPPORT DO YOU HAVE FOR THAT STATEMENT?

A. It is ATTCI's position that FCC regulations and decisions support this statement. For example, 47 C.F.R. § 51.703(b) states:

> A LEC may not assess charges on any other telecommunications carrier for bcal telecommunications traffic that originates on the LEC's network.

Further, 47 C.F.R. § 51.709(b) states:

> The rate of a carrier providing transmission facilities dedicated to the transmission of traffic between two carriers' networks shall recover only the costs of the proportion of that trunk capacity used by an interconnecting carrier to send traffic that will terminate on the providing carrier's network.

Moreover, in its Local Competition Order, the FCC stated:

> The amount an interconnecting carrier pays for dedicated transport is to be proportional to its relative use of the dedicated facility. For example, if the providing carrier provides one-way trunks that the inter-connecting carrier uses exclusively for sending terminating traffic to the providing carrier, then the inter-connecting carrier is to pay the providing carrier a rate that recovers the full forward-looking economic cost of those trunks. <u>The inter-connecting carrier, however, should not be required to pay the providing carrier for one-way trunks in the opposite direction, which the providing carrier owns and</u>

uses to send its own traffic to the inter-connecting carrier.[45]

As discussed in ATTCI's arbitration petition (pages 15-18) in this case, this basic principle relating to the originating carrier's obligations to bring its originating traffic to the POI has also been affirmed in numerous FCC Orders. In fact, most recently in the *Intercarrier Compensation NPRM*, the FCC stated: "Under our current rules, the originating telecommunications carrier bears the costs of transporting traffic to its point of interconnection with the terminating carrier"[46]

64. Q. WHAT HAVE THE STATE COMMISSIONS SAID ABOUT THE TRANSPORT OBLIGATIONS OF THE ORIGINATING CARRIER?

A. In addition to the state decisions cited above relating to POI, which also found that the originating carrier was required to transport its traffic to the POI, there is a recent AT&T arbitration in Florida, in which the Florida Commission found that each party should be financially responsible for delivering its traffic to a POI – even if it is a single POI within a LATA.[47]

Also, in a Georgia generic proceeding that addressed the issue, a recent staff recommendation also found that for calls that originated

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[45] *Local Competition Order* at ¶ 1062 (emphasis added).
[46] *Intercarrier Compensation NPRM* at ¶70.

and terminated within the same local calling area, Bell South was required to bear the costs to transport its calls to the POI. Specifically, the staff found that:

> "Since the originating carrier bears the cost of transporting calls to the network of its co-carrier, Bell South should bear the responsibility for calls originated on its network that have to be hauled to a CLEC's POI within the LATA. The FCC has not made an exception from this general obligation for those instances in which a CLEC's POI that is within the LATA but not the same local calling area as the originating point of the traffic. This conclusion is consistent with the CLEC's responsibility to bear the costs of all the traffic originated on their networks."[48]

This staff recommendation was adopted by the Georgia Commission in its final order.[49]

Finally, the Massachusetts Commission directly addressed this issue in a Verizon/MediaOne (now Comcast) arbitration, as well as in a Verizon interconnection tariff investigation. In both of these cases Verizon made proposals, like SBC Illinois' proposal in this case, which would have shifted a significant portion of its interconnection transport obligations to AT&T Broadband, and in both of those cases the

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[47] *Petition by AT&T Communications of the Southern States, Inc. d/b/a/ AT&T for Arbitration of Certain terms and conditions proposed by Bell South Telecommunications, Inc. pursuant to 47 U.S.C. Sec. 252*, Dkt. No. 000731-TP at 34-46 (June 28, 2001).

[48] Georgia Docket No. 13542-U at 1 (July 10, 2001).

[49] In Re: Generic Proceeding on Point of Interconnection and Virtual FX Issues, Docket D-13542-U (Ga. P.S.C., July 23, 2001)

Massachusetts Commission rejected Verizon's proposals. The Massachusetts Commission found that each carrier has the obligation to transport its own customer's calls to the POI (and then pay reciprocal compensation to compensate the terminating carrier for the costs of transport and termination).[50] In the *Interconnection Tariff* case (D.T.E. 98-57), the Massachusetts Commission stated:

> Carriers are responsible to provide transport or pay for transport of their originating calls, including reciprocal compensation, between their own originating and the other carrier's terminating end-users customers. ….Because Bell Atlantic's GRIP proposal would require CLECs to establish additional interconnection points at Bell Atlantic tandem and end offices and does not allocate transport costs in a competitively neutral manner, we reject it. We direct Bell Atlantic to revise its tariff to eliminate the GRIP proposal and to include a provision that reflects that each carrier has an obligation to transport its own customers' calls to the destination end-user on another carrier's network or bear the cost of that transport." (*Interconnection Tariff* at 133.)

65. Q. ARE THE ORIGINATING CARRIER'S FINANCIAL OBLIGATIONS RELATED TO THE "CALLING PARTY'S NETWORK PAYS" RULE?

A. Yes. Prior to the passage of the Act and the advent of local exchange competition, the originating carrier was responsible in most instances for the costs of originating, transporting and terminating each local call, simply because calls never left the originating carrier's network. Consistent with the originating carrier's overall financial responsibility,

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[50] *Bell Atlantic Interconnection Tariff*, D.T.E. 98-57 at 132-133 (March 24, 2000) ("Interconnection

the originating carrier collected and retained the applicable revenue from the calling party. This is known as the Calling Party's Network Pays ("CPNP") rule. The fundamental principle underlying CPNP is the fact that the calling party's carrier (network) receives the revenue from the calling party and is responsible for the costs incurred in carrying the call. Today, intercarrier compensation in Illinois is under the CPNP regime. SBC Illinois has not made any claim to the contrary.

66. Q. IS SBC ILLINOIS' PROPOSAL CONSISTENT WITH THESE PRINCIPLES YOU HAVE JUST DESCRIBED?

A. No. As we will describe in more detail below, SBC Illinois' proposal completely ignores these basic tenets of interconnection under federal Illinois law, that have been upheld by this Commission, other state commissions, the FCC and the courts, as we described above. Contrary to these principles, SBC Illinois' proposal would allow it to shift a substantial amount of its traffic transport costs to ATTCI.

67. Q. WHAT IS THE PROBLEM WITH SBC ILLINOIS' PROPOSAL?

A. It is ATTCI's position that SBC Illinois' network architecture proposal for Section 4.3.1 is contrary to the Act, FCC orders and FCC Rules. Specifically, as explained below, it is ATTCI's position that SBC Illinois' proposed network architecture language violates a CLEC's right to

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Tariff"); *MediaOne/Bell Atlantic Arbitration*, D.T.E. 99/42/43, 99-52 at 12-13 (March 24, 2000).

select a POI and violates the supporting principle that the originating carrier has a financial obligation to deliver its traffic to the POI.

68. Q. YOU ASSERT THAT SBC ILLINOIS IS ATTEMPTING TO SHIFT ITS COSTS TO ATTCI. HOW EXACTLY WOULD SBC ILLINOIS DO THAT?

A. SBC Illinois is seeking to escape its obligation to compensate ATTCI for the transport ATTCI provides (if any) for the termination of traffic that is originated by SBC Illinois' subscribers. Section 4.3.2 of SBC Illinois' proposed language would prohibit ATTCI from assessing charges to SBC Illinois for transport between the POI and the ATTCI terminating switch, if the POI or the ATTCI terminating switch is located outside of SBC Illinois' local calling area. This matter is addressed under Issue Interconnection 6. SBC Illinois is also seeking the ability to charge ATTCI for transport of SBC Illinois traffic that is originated by SBC Illinois' subscribers between the SBC Illinois originating switch and the ATTCI terminating switch. Section 4.3.3 of SBC Illinois' proposed language would permit SBC Illinois to unlawfully assess charges to ATTCI for transport between the SBC Illinois originating switch and the POI, if the POI or the ATTCI terminating switch is located outside of SBC Illinois' local calling area. This matter is addressed under Issues Interconnection 7, 8 and 9.

It is important to note, that within each of these SBC Illinois proposed contract sections, the prohibition on ATTCI to assess lawful

transport charges to SBC Illinois and the right for SBC Illinois to unlawfully charge ATTCI for transport are for calls *originated* by SBC Illinois' customers to ATTCI's customers.

69. Q. BUT DOESN'T SBC ILLINOIS ALLOW ATTCI TO SELECT A SINGLE POI PER LATA?

A. SBC Illinois claims that it does, but a review of its proposal makes it clear that the "right" to select a POI is a right without any significance. Although SBC Illinois claims that it accepts ATTCI's legal right to designate a single interconnection point per LATA, the compensation elements of SBC Illinois' proposal essentially eliminate that right. SBC Illinois has proposed forcing ATTCI to be financially responsible for picking up SBC Illinois traffic in each SBC Illinois basic local calling area and transporting that traffic to ATTCI's point of interconnection in the LATA. This proposal would render ATTCI's chosen interconnection points meaningless. ATTCI derives no benefit from its right to designate interconnection points unless they serve their intended purpose, that is, delineating the boundaries between the originating carrier's network and payment of reciprocal compensation to the terminating carrier for completing the call. By agreeing that ATTCI may interconnect at a single point in a LATA, SBC Illinois knows it offers nothing more than the sleeves out of its own vest since it requires ATTCI to pay the cost of transporting SBC Illinois' own

originating traffic from the boundaries of its basic local calling areas to the point of interconnection designated by ATTCI.

It is a hollow gesture for SBC Illinois to allow ATTCI to designate a single point of interconnection and then require ATTCI to pay the difference of the cost of that single point of interconnection and the cost of multiple points of interconnection in every SBC Illinois basic local calling area. SBC Illinois' proposal would effectively eliminate ATTCI's right to designate a single point of interconnection, because it would force ATTCI to pay SBC Illinois ***as if*** ATTCI were required to establish multiple points of interconnection in all of SBC Illinois' basic local calling areas. ATTCI believes that it is plainly contrary to the objectives set forth by the FCC to allow a CLEC to interconnect at a single point, but then require that CLEC to pay the incumbent carrier for transport facilities as if the CLEC were required to interconnect at multiple points. Any such decision would render meaningless the CLEC's ability to interconnect at a single point in a LATA.

Moreover, this issue does not arise because ATTCI has chosen to design its network in some unique or complicated manner. Rather, it arises from the fact that SBC Illinois' network and ATTCI's network are configured differently, yet still must still interconnect to serve a similar geographic base of customers. Because of those differences, if ATTCI designates a single point of interconnection in a LATA, it is

possible that a call from an SBC Illinois customer in an SBC Illinois basic local calling area to an ATTCI customer in that same basic local calling area will have to travel outside the basic local calling area to the point of interconnection before it reaches ATTCI's switch and ultimately its customer. As we indicated earlier, this possibility reflects the different network configurations deployed by AT&T and SBC, and, in particular, the different emphasis on the number and location of switches. This difference in design, however, should be a difference without a distinction as far as financial responsibility is concerned. The fact that a call from an SBC Illinois customer to an ATTCI customer may have to travel outside the basic local calling area should not in any way undermine ATTCI's legal right to designate a single point of interconnection in a LATA. In effect, however, that is precisely what SBC Illinois' proposal does. SBC Illinois does not dispute that ATTCI has the right to interconnect with SBC Illinois' network at a single point within each LATA. SBC Illinois' position, however, is that it nonetheless should have no obligation to transport its traffic beyond its own originating local calling area.[51]

SBC's proposal would require ATTCI to pay SBC Illinois for transport of SBC's originating traffic if the POI was located outside of

[51] See SBC Illinois' position under Issues Interconnection 5 through 9 in Attachment B to the arbitration petition.

the local calling area of the SBC Illinois customer originating a call to an ATTCI customer. SBC Illinois would, however, be responsible for the "first" fifteen miles of that transport. As an example, an SBC Illinois customer in Aurora makes a local call to his neighbor next door. In this case, his neighbor has selected ATTCI for his local service, and the POI selected by ATTCI is outside the SBC Illinois customer's local calling area, in Chicago, 30 miles away. Under the SBC proposal, SBC Illinois would charge ATTCI transport to carry SBC's call to the ATTCI POI. SBC Illinois would not charge the full thirty miles, however. Instead, SBC would deduct fifteen miles and "only" charge ATTCI for the remaining 15 miles. As this Commission has noted, "This still results in an ILEC charging another carrier for local traffic originated on the ILECs system."[52]

70. Q. CAN YOU EXPLAIN HOW THIS PROPOSAL CAN HARM COMPETITION?

A. Yes. As we explained above, to effectively compete for local exchange customers in Illinois, ATTCI has designed and deployed a network architecture that is substantially different than the embedded SBC Illinois network. Because of this difference in network architecture, some calls from SBC Illinois customers to ATTCI customers must be transported beyond the SBC Illinois local calling areas to be delivered

[52] Illinois Bell Telephone Company, Filing to implement tariff provisions related to Section 13-801

to the ATTCI switch serving the terminating ATTCI customers. As noted above, despite well-established obligations requiring each party to bear the cost to transport and terminate its own traffic, SBC Illinois objects to bearing any costs for Interconnection Facilities beyond the SBC Illinois local calling area. This means that SBC Illinois is proposing that ATTCI bear the cost of transporting SBC Illinois' originated local and expanded area calling and intra-LATA toll traffic from SBC Illinois' end office to ATTCI's switch (less 15 miles) for completion of such calls.[53]

While reducing its transport burden for its originating traffic and transferring those costs to ATTCI, SBC Illinois also proposes to increase ATTCI's transport obligations for ATTCI's originating traffic beyond what it is required to bear under the law. According to SBC Illinois, ATTCI is financially responsible for delivering its own originating calls (calls from ATTCI's customers to SBC Illinois customers) into every SBC Illinois end office, but SBC Illinois is not

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of the Public Utilities Act, Docket 01-0614, June 11, 2002, at ¶ 333.

[53] If the Commission were to adopt SBC Illinois' proposal, which ATTCI asserts the Commission should not do, the manner that SBC Illinois would implement its proposal is completely unfair to ATTCI. SBC Illinois would assess ATTCI the full TELRIC rate for UNE dedicated transport and discount the price by the per-mile rate for 15 miles of inter-office transport. In this way ATTCI becomes financially responsible for the preponderance of the transport facility cost. This method is even at odds with the principles proposed by SBC Illinois – that ATTCI should be financially for transport that is greater than 15 miles. To implement SBC Illinois' proposal properly, which the Commission should not do, ATTCI should only be financially responsible for any incremental cost for transport greater than 15 miles (i.e., the per mile inter-office transport for the number of miles greater than 15).

financially responsible for delivering its originating traffic beyond the SBC Illinois local calling area. Such an imbalance of responsibility is on its face inequitable.

When one takes into consideration the reduction of SBC Illinois' costs with the increased costs imposed upon ATTCI and the advantages in market power, network ubiquity and positive economics associated with the large customer base possessed by SBC Illinois, the implications of the SBC Illinois proposal on the development of competition in Illinois are significant. We will quantify the direct financial implications of SBC Illinois' proposal later in our testimony.

71. Q. ISN'T SBC ILLINOIS' PROPOSAL SIMILAR TO THE VERIZON VGRIP PROPOSAL THAT THE FCC REJECTED IN ITS VIRGINIA ARBITRATION ORDER?

A. Yes. In the Virginia Arbitration that was heard and decided by the Wireline Competition Bureau on delegated authority, Verizon proposed network interconnection terms substantially similar to the terms proposed in this arbitration by SBC Illinois. SBC Illinois' requirement, like Verizon's discredited VGRIP proposal, would effectively eliminate ATTCI's right to designate its POI or POIs, because it would force ATTCI to pay SBC Illinois ***as if*** ATTCI were required to establish multiple points of interconnection in all of SBC Illinois' basic local calling areas.

It is ATTCI's position that it is contrary to the objectives and rules set forth by the FCC to allow a CLEC to interconnect at a particular point, but then require that CLEC to pay the incumbent carrier for transport facilities as if the CLEC were required to interconnect at multiple points. Any such decision would render meaningless the CLEC's ability to interconnect at a single point in a LATA. The FCC acknowledged this in the *Virginia Arbitration Order* in which it rejected Verizon's VGRIP proposal. This Commission should reach the same conclusion and reject SBC Illinois' interconnection proposal for Section 4.3.1 of the ICA.

72. Q. HAS ATTCI PRICED OUT THE FINANCIAL IMPACT OF SBC ILLINOIS' TRANSPORT PROPOSALS IN ISSUES INTERCONNECTION 5 THROUGH 9?

A. Yes. ATTCI has studied the cost of implementing SBC Illinois' and ATTCI's competing proposals in SBC Illinois' service area in Illinois. The results of the study show that SBC Illinois' proposal would have a significant adverse financial impact on ATTCI's local telephone operations in Illinois. The summary sheet from ATTCI's study is provided as AT&T Exhibit 2.4. A complete copy of the cost study has been provided as AT&T Exhibit 2.5. (A Microsoft Excel file of the cost study has been served on the parties by e-mail).

73. Q. WHAT DOES THE COST STUDY SHOW?

A. SBC Illinois' POI and transport proposals shift to ATTCI **[BEGIN ATTCI PROPRIETARY]** **[END ATTCI PROPRIETARY]** in annual costs that should appropriately be borne by SBC Illinois. To help understand the impact of SBC Illinois' proposal on ATTCI's monthly cost per subscriber line, we divided ATTCI's annual cost under its proposal and ATTCI's annual costs under SBC Illinois' proposal by 12 to get monthly costs and then divided the monthly costs by the number of subscriber lines served by ATTCI.

Table 1 compares ATTCI's monthly per line interconnection cost under each party's proposal.

	ATTCI MONTHLY PER LINE INTERCONNECTION COST
ATTCI Proposal	**[BEGIN ATTCI PROPRIETARY] [END ATTCI PROPRIETARY]**
SBC Illinois Proposal	**[BEGIN ATTCI PROPRIETARY] [END ATTCI PROPRIETARY]**

74. Q. WHAT CONCLUSIONS CAN BE DRAWN FROM THIS COST STUDY?

A. Simply put, SBC Illinois' proposals would stifle the development of competition in Illinois. There is no way ATTCI could effectively compete with SBC Illinois in Illinois if ATTCI's monthly cost for interconnection alone amounted to **[BEGIN ATTCI PROPRIETARY]** **[END ATTCI PROPRIETARY]** per subscriber line. ATTCI has

proposed that the interconnection arrangement adopted by the Commission should (1) be neutral to either party's network (i.e., each party should have the same relative obligations when it is in the role of originating carrier), and (2) require each party to bear the costs to transport and terminate its own traffic. The Commission should adopt ATTCI's contract language proposals for Issue Interconnection 5 and reject SBC Illinois' proposals.

Issue Interconnection 6: SBC Issue: In one-way trunking architectures, does Ameritech Illinois have an obligation to compensate AT&T for any transport used by AT&T to terminate Local/IntraLATA traffic originated by Ameritech Illinois if AT&T's POI and/or switch is outside the local calling area and the LATA where the call originates?

75. Q. WOULD YOU PLEASE DESCRIBE ISSUE INTERCONNECTION 6?

A. Issue Interconnection 6 is substantively the same as Issue Interconnection 5, but Issue 6 specifically addresses SBC Illinois' obligation to compensate ATTCI for any transport that ATTCI provides between SBC Illinois' POI and the ATTCI terminating switch. ATTCI's position is that the FCC's rules at 47 C.F.R. 51.701 and 51.703 require SBC Illinois to pay reciprocal compensation to ATTCI for the transport of SBC Illinois' traffic irrespective of the location of SBC Illinois' POI or ATTCI's terminating switch. SBC Illinois takes the position that where ATTCI locates a POI, its terminating switch, or both, outside of the SBC Illinois local calling area where the call originates, that ATTCI

should be precluded from recovering any costs to transport SBC Illinois' traffic between the POI and the terminating switch.

76. Q. WHAT IS RECIPROCAL COMPENSATION?

A. "Reciprocal compensation" is an arrangement between two carriers in which *each* of the two carriers receives compensation from the other carrier for the transport and termination of telecommunications traffic that originates on the network of the other carrier. Reciprocal compensation is broken down into two parts – the transport portion, which is transmission and any necessary tandem switching from the POI to the terminating carrier's end office switch that directly serves the called party, and the termination portion, which involves the switching of the traffic at the terminating carrier's end office switch or equivalent facility and delivery of that traffic to the called party's premises. See 47 C.F.R. 51.701(c)(d). With its contract proposal, SBC Illinois is seeking to escape its obligation to pay the transport portion of reciprocal compensation.

77. Q. DOES THE TERM TRANSPORT HAVE A PRECISE MEANING?

A. Yes. Whereas the term "transport" is used generically to mean the facilities that a carrier provides to carry telecommunications traffic, the FCC gave "transport" a precise definition in 47 C.F.R. 51.701(c).

78. Q. DO FCC RULES AND THE ACT REQUIRE COMPENSATION FOR TRANSPORT?

A. Yes, 47 C.F.R. 51.703(a) requires carriers, such as SBC Illinois and ATTCI, to establish reciprocal compensation for the transport of traffic originating on their networks. This rule does not provide any exceptions with respect to the location of the POI or location of the terminating carrier's switch. Further, Section 251(b)(5) of the Act requires that carriers establish reciprocal compensation arrangements and Section 252(d)(2) of the Act states that the agreement, "provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier."

79. Q. HASN'T ATTCI AGREED TO AN EXCEPTION TO THIS RULE?

A. Yes. Where ATTCI chooses to locate its terminating switch in different LATA than the LATA where ATTCI is offering exchange services, the parties have agreed that ATTCI will be financially responsible for the transport between an ATTCI point of presence in the LATA and the remote ATTCI switch location. Under these agreed to terms, SBC Illinois would have absolutely no obligation to compensate ATTCI for any transport beyond the LATA.

80. Q. WHAT SHOULD THE COMMISSION DO?

A. The Commission should reject SBC Illinois' proposed language under Section 4.3.2.1 of the ICA, and require SBC Illinois to compensate ATTCI for the transport of SBC Illinois' traffic.

Issue Interconnection 7: SBC Issue: When AT&T has requested a POI located outside the local calling area of Ameritech Illinois' end user originating the call, should AT&T be financially responsible for the transport outside the local calling area for Local/IntraLATA traffic originated by Ameritech Illinois.

81. Q. WOULD YOU PLEASE DESCRIBE ISSUE INTERCONNECTION 7?

A. Issue Interconnection 7 is identical to Issue Interconnection 5, but deals specifically with the situation where the POI at which SBC Illinois interconnects to ATTCI's network is outside the SBC Illinois' legacy local calling area. If the Commission decides in ATTCI's favor on Issue Interconnection 5, Issue Interconnection 7 becomes moot. As we stated under Issue Interconnection 5, ATTCI's position is that the originating carrier is financially responsible for delivering its traffic to its POI, irrespective of where the POI is located within the LATA. SBC Illinois has taken the position that ATTCI should reimburse SBC Illinois (at TELRIC rates) for taking the call outside the SBC Illinois local calling area. Our testimony on Issue Interconnection 5 also supports ATTCI's position on Issue Interconnection 7. As we have described in detail under Issue Interconnection 5, SBC Illinois' network architecture proposal for Section 4.3.2.1 of the ICA is contrary to the Act, FCC orders and FCC Rules. Specifically, as we explained above, SBC Illinois' network architecture language violates a CLEC's right to select a POI and violates the supporting principle that the originating carrier has a financial obligation to deliver its traffic to the POI.

82. Q. WHAT WOULD BE THE RESULT IF THE COMMISSION WERE TO ADOPT SBC ILLINOIS'S PROPOSAL ON THIS ISSUE?

A. Currently, SBC Illinois is interconnected to ATTCI at each ATTCI switch location using reverse collocation terms that are part of the parties' current ICA. This means that SBC Illinois has deployed its own network to each ATTCI switch location. If the Commission were to adopt SBC Illinois' proposal on this issue, SBC Illinois would assess ATTCI for the entire length of each and every trunk group facility less 15 miles. We have described the devastating economic affect that this would have on ATTCI's operations in Illinois under Issue Interconnection 5. We have also described under Issue Interconnection 5 the unfairness of the pricing method that SBC Illinois would use to assess these charges to ATTCI.

83. Q. WHAT SHOULD THE COMMISSION DO?

A. The Commission should reject SBC Illinois' proposed language under Section 4.3.3 of the ICA and require SBC Illinois to carry its traffic at its own cost to the POI irrespective of the location of the POI within the LATA.

Issue Interconnection 8: SBC Issue: When AT&T has requested a POI located outside the local calling area of Ameritech Illinois' end user originating the call, should AT&T be financially responsible for the transport outside the local calling area for FX traffic originated by Ameritech Illinois.

84. Q. WOULD YOU PLEASE DESCRIBE ISSUE INTERCONNECTION 8?

A. Issue Interconnection 8 is substantially the same as Issue Interconnection 5, but in this issue SBC Illinois provides the Commission a different rationale to permit SBC Illinois to assess transport charges to ATTCI for traffic that originates on SBC Illinois' network. In Issue 8, SBC Illinois proposes that FX traffic should be subject to a different set of network interconnection rules than all other kinds of traffic. SBC Illinois takes the position that FX traffic is somehow exempt from 47 C.F.R. 51.703(b), even though the Act and the FCC's Rules provide no such exception. As we stated under Issue Interconnection 5, ATTCI's position is that the originating carrier is financially responsible for delivering its traffic to its POI and for compensating the terminating carrier for any transport and termination it provides for the completion of such traffic.

85. Q. IS THIS ISSUE RELATED TO ISSUES IC 2(b) AND 2(c) (COMPENSATION FOR FX TRAFFIC) UNDER ARTICLE 21?

A. Not really. SBC Illinois may hope that Issue Interconnection 8 will ride the coattails of the two FX issues under Article 21. Although these two sets of issues have FX traffic as a nexus, the substantive matter upon which the Commission should decide Issue Interconnection 8 is very different than Issues IC 2(b) and 2(c). Issue Interconnection 8 will be decided on the evidence and arguments that we laid out under Issue Interconnection 5, particularly, that FCC Rule 47 C.F.R. 51.703(b) prohibits SBC Illinois from assessing charges to ATTCI for traffic that

originates on SBC Illinois' network. That FCC Rule applies to all traffic that is subject to Section 251(b)(5) of the Act irrespective of the physical location of the customers or any other factor. As we discuss in greater detail under Issues IC 2(b) and 2(c), under the FCC's implementation of the Act *all* telecommunications, except traffic carved out by Section 251(g), is subject to Section 251(b)(5) of the Act, and FX traffic is not carved out by Section 251(g)[54]. Accordingly, it is ATTCI's position that FX traffic is subject to same FCC rule as all other traffic subject to 251(b)(5) of the Act, and in the instant case, FX traffic is subject to Rule 51.703(b).

86. Q. ISN'T SBC ILLINOIS PROPOSING THAT ATTCI ONLY BE RESPONSIBLE FOR THE TRANSPORT OF FX TRAFFIC, NOT ALL TRAFFIC?

A. Yes, but that doesn't make SBC's proposal correct. First, as we noted above, there is not an exception to the FCC rule relating to the transport obligation of an originating carrier if the traffic is FX or traffic. Second, although SBC's proposed requirement is purportedly limited to FX traffic, based on the numerous disputes that AT&T has faced with SBC over interconnection matters, if SBC prevailed on this issue, we would expect that SBC would make every effort to apply the FX interconnection terms to virtually all traffic.

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[54] For a detailed discussion of the Section 251(g) "carve out", please see our testimony on Issues 2(b) and (c).

87. Q. WHAT SHOULD THE COMMISSION DO?

A. The Commission should reject SBC Illinois' proposed contract language for Section 4.3.3 of the ICA and require SBC Illinois to transport FX traffic originating on its network at its own cost to the POI.

Issue Interconnection 9: SBC Issue: When AT&T has requested a POI located outside the local calling area of Ameritech Illinois' end user originating the call, should AT&T be financially responsible for the transport outside the local calling area for FX Traffic originated by Ameritech Illinois?

88. Q. WOULD YOU PLEASE DESCRIBE ISSUE INTERCONNECTION 9?

A. Issue Interconnection 9, like Issues 6 through 8 are SBC Illinois issues. It appears to ATTCI that SBC Illinois Issue 9 is identical to SBC Illinois Issue 8. Therefore, we will rely on our testimony on Issue Interconnection 8 for this issue. If SBC Illinois revises the wording of this issue or its proposed contract language or statement of position, ATTCI reserves the right to submit additional testimony on the revised SBC Illinois issue.

IV. INTERCARRIER COMPENSATION (IC) ISSUES

Issue IC 2(a): Can the terminating Party charge exchange access to the originating Party for traffic terminating within the originating Party's local calling area? (Article 21, Section 21.2.7)

89. Q. PLEASE DESCRIBE ISSUE IC 2(a).

A. Under current FCC rules, all telecommunications traffic, except traffic subject to §251(g) of the Telecommunications Act of 1996 ("Act"), is

subject to reciprocal compensation.[55] As we discuss later in our testimony, exchange access is one of the types of traffic that is "carved out" by §251(g) and is excluded from reciprocal compensation. It is our understanding that SBC Illinois argues that traffic should be classified as exchange access based solely on SBC Illinois' local calling area, irrespective of whether the interconnecting carrier classifies a certain call originating on its network as local or toll. It is ATTCI's position that traffic originating on its network that terminates within ATTCI's tariffed local calling area is Section 251(b)(5) traffic and therefore is subject to reciprocal compensation not access charges.

Also, SBC Illinois' proposed definition of "local calls" for Section 21.2.7 requires that such local calls "must actually originate and actually terminate to End Users physically located within the same common local or mandatory local calling area *where SBC-Illinois is the ILEC*." (emphasis added) In Section 21.2.8, SBC Illinois builds on this point with language defining calls between parties in the same common local or common mandatory local calling area, but where one of the parties is physically located outside of the operating area *where SBC-Illinois is the ILEC*, as either FX or Feature Group A. SBC Illinois' proposed language for Section 21.2.8 specifically states that such calls are not Local Calls and are not subject to reciprocal compensation.

[55] *See, e.g., 47 C.F.R. § 51.701.*

Thus, under SBC Illinois' language for Sections 21.2.7 and 21.2.8, while calls between SBC Illinois and Verizon end users in the same common local or common mandatory local calling areas are local calls, if one of the subscribers becomes an ATTCI end user, then such calls are no longer local calls but are FX calls, even though both parties to the call physically reside in the same common local or common mandatory local calling area! Thus, if ATTCI has an end user in Verizon's franchise area, and that end user calls an SBC Illinois end user within the same common local or common mandatory local calling area, SBC Illinois would define that call as an FX call subject to bill and keep and not as a local call subject to reciprocal compensation. ATTCI disagrees and believes such calls are local calls subject to reciprocal compensation.

90. Q. WHAT IS YOUR UNDERSTANDING OF THE ACT'S SECTION 251 "CARVE OUT"?

A. In its *ISP Remand Order*, the FCC stated that it had erred in attempting to distinguish between local and long distance traffic for the purpose of determining when reciprocal compensation should apply.[56] The FCC said "the term 'local,' not being a statutorily defined category, is particularly susceptible to varying meanings and, significantly, is not a

[56] In the Matter of Intercarrier Compensation for ISP-Bound Traffic, Order on Remand, FCC 01-131 (April 27, 2001) ("*ISP Remand Order*" or "ISP Compensation Order") *at* ¶ 26.

term used in section 251(b)(5) or section 251(g)."[57] The FCC expressly stated that:

> Unless subject to further limitation, section 251(b)(5) would require reciprocal compensation for transport and termination of *all* telecommunications traffic, -- *i.e.,* whenever a local exchange carrier exchanges telecommunications traffic with another carrier. Farther down in section 251, however, Congress explicitly exempts certain telecommunications services from the reciprocal compensation obligations. Section 251(g) provides:
>
> > On or after the date of enactment of the Telecommunications Act of 1996, each local exchange carrier . . . shall provide exchange access, *information access,* and exchange services for such access to interexchange carriers and information service providers in accordance with the same equal access and nondiscriminatory interconnection restrictions and obligations (including receipt of compensation) that apply to such carrier on the date immediately preceding the date of enactment of the Telecommunications Act of 1996 under any court order, consent decree or regulation, order, or policy of the [Federal Communications] Commission, until such restrictions and obligations are explicitly superceded by regulations prescribed by the Commission after such date of enactment.[58] (Emphasis in original)

Thus, the FCC concluded that, under the Act, *all traffic* is subject to reciprocal compensation under Section 251(b)(5), unless it

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[57] *Id*. at ¶ 34.

[58] *Id.* at ¶ 32 (footnote omitted).

falls within the exemptions established in the Section 251(g) carve out.[59]

As this Commission observed in its Order in Essex Telecom, Inc. v. Gallatin River Communications, L.L.C., "the FCC has apparently created decisional parameters for reciprocal compensation purposes that begin with a universe of 3 types of telephone traffic: exchange access and information access (that are not subject to reciprocal compensation) and traffic that is not exchange access or information access (that is subject to reciprocal compensation)."[60]

91. Q. DOES TRAFFIC ORIGINATING ON ATTCI'S NETWORK THAT ORIGINATES ANDTERMINATES IN AN ATTCI LOCAL CALLING AREA FALL WITHIN THE ACT'S SECTION 251 CARVE OUT?

A. No, traffic originating on ATTCI's network that terminates in an ATTCI local calling area is not "exchange access." The FCC's Rules state that "'[E]xchange access' means the offering of access to telephone exchange services or facilities for the purposes of originating or terminating telephone toll services."[61] "Telephone toll service," in turn, is defined in FCC Rules as "telephone service between stations in different exchange areas for which there is made a *separate charge*

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[59] *Id*. at ¶ 46.

[60] Essex Telecom, Inc. v. Gallatin River Communications, L.L.C., Docket 01-0427, July 24, 2002, Order, ¶ 65.

[61] 47 U.S.C. § 153(40).

not included in contracts with subscribers for exchange service."[62] When an ATTCI local service customer dials a number within ATTCI's tariffed local calling area, there is no "separate charge" made. Therefore, by definition, calls within the ATTCI local calling area are not toll calls, and do not fall within the Section 251(g) carve out. Such traffic should be (and is today) subject to reciprocal compensation.

92. Q. IS THE PUBLIC INTEREST SERVED BY A DE FACTO REQUIREMENT TO MIRROR SBC ILLINOIS' LOCAL CALLING AREAS?

A. No. SBC Illinois' local calling areas predate the Act and are rooted in SBC's legacy network architecture and monopoly era regulation. They were established largely before anyone envisioned competition for local service. CLECs should not be saddled with "cloning" SBC's historical local calling areas in the provision of local telecommunications services. Requiring the parties to use only SBC Illinois' local calling areas for reciprocal compensation purposes creates artificial price barriers and stifles competitive offerings. In fact, the dependence on SBC Illinois' retail local calling areas tilts the competitive playing field toward SBC Illinois and effectively bars CLECs such as ATTCI from making competitive offerings different from those provided by SBC Illinois.

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[62] *Id.* § 153(48) (emphasis added).

93. Q. WOULD ADOPTION OF DIFFERENT RETAIL CALLING AREAS CREATE PROBLEMS IN BILLING RECIPROCAL COMPENSATION?

A. No. Such arrangements are in place today, and we are unaware that billing reciprocal compensation under such arrangements has been a problem.

94. Q. ARE CALLS BETWEEN PARTIES PHYSICALLY LOCATED IN THE SAME COMMON LOCAL OR COMMON MANDATORY LOCAL CALLING AREAS NOT LOCAL IF ONE OF THE PARTIES TO THE CALL IS LOCATED OUTSIDE OF SBC ILLINOIS'S OPERATING AREA?

A. No. SBC Illinois takes the position that calls are local calls for reciprocal compensation purposes only if the calls "actually originate and actually terminate to End Users physically located within the operating area where SBC-Illinois is the ILEC." ATTCI believes that calls between parties physically located within the same local calling area are in fact local calls and are subject to reciprocal compensation. ATTCI also believes calls placed between telephone numbers that are assigned to rate centers within the same local calling area are local calls and are subject to reciprocal compensation. However, we will address that belief in more detail in discussing other IC issues and will confine ourselves here to addressing only the case where the two parties to the call physically reside within the same local calling area.

As we discussed above, under current FCC rules, all telecommunications traffic, except traffic subject to §251(g) of the Act,

is subject to reciprocal compensation. Since calls within a common local or common mandatory local calling area are local calls and are not toll calls, such calls are not subject to the 251(g) carve out provision and therefore are subject to reciprocal compensation. Alternatively, if the Commission were to rely on the local/non-local distinction to determine whether reciprocal compensation applies, rather than on the whether the traffic falls within the Section 251(g) carve out, reciprocal compensation still applies because both parties to the call reside within the same local calling area and thus the call originates and terminates within the same local calling area. ATTCI believes it should pay reciprocal compensation to SBC Illinois for completing a call originated by an ATTCI end user who physically resides within the same AT&T local calling area as the SBC Illinois end user. Similarly, we see no basis for SBC Illinois to oppose paying reciprocal compensation to ATTCI when ATTCI completes a call to an ATTCI end user who physically resides within the same SBC local calling area as the SBC Illinois end user originating the call. The fact that the local calling area may span two different telephone company operating areas, e.g., Verizon's and SBC's, is simply not relevant. SBC and Verizon and SBC and other independent companies treat calls between end users in a local calling area that overlaps their respective operating areas as local calls; there is no reason such calls

should be treated as FX calls when they are between SBC Illinois and CLECs such as ATTCI.

95. Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE IC 2(a)?

A. First, the Commission should find that neither party can charge exchange access to the other party for traffic terminating within the originating party's local calling area. As explained above, calls terminating within the originating party's local calling area are not toll calls. Therefore, such traffic should be subject to reciprocal compensation and not to access charges.

Next, the Commission should adopt ATTCI's language for Article 21, Section 21.2.7: "Reciprocal Compensation between the Parties shall be based on the originating carrier's tariffed local calling area." The Commission should reject SBC Illinois' competing language.

Finally, the Commission should reject SBC Illinois' proposed language for Article 21.2.7 which states that "[l]ocal calls must actually originate and actually terminate to end users physically located within the same common or common mandatory local calling area *where SBC-Illinois is the ILEC*." As explained above, there is no reason to define calls that are within a local calling area, but between different operating company franchise areas, as FX calls that are not subject to

reciprocal compensation. The Commission should find that such calls are local calls and are subject to reciprocal compensation.

Issue IC 2(b): How should ISP-bound, FX traffic be compensated pursuant to the rules established by the FCC in the ISP Remand Order? (Article 21, Sections 21.2.7 and 21.2.8)

96. Q. PLEASE DESCRIBE ISSUE IC 2(b).

A. SBC Illinois claims reciprocal compensation is only applicable to the transport and termination of "local telecommunications traffic," which SBC Illinois defines as traffic that originates and terminates "within the same common local and common mandatory local calling area, i.e., within the same or different SBC-Illinois Exchange(s) that participate in the same common local or mandatory local calling area approved by the Illinois Commission." Further, that such "local calls must actually originate and actually terminate to End Users physically located within the same common local or common mandatory local calling area within the operating area where SBC-Illinois is the ILEC." SBC Illinois concludes that since FX traffic does not originate and terminate in the same local calling area, as SBC Illinois defines local calling area, FX traffic is not subject to reciprocal compensation. Instead, SBC Illinois proposes that FX traffic be subject to a "Bill and Keep" arrangement whereby neither party charges the other for terminating traffic that originates on the other's network.

ATTCI's position is that FX and FX-like traffic consists of two categories of traffic: voice and Internet Service Provider (ISP) bound traffic, and each category must be addressed separately.[63] Further, as we will explain, whether or not such traffic is "local" is not determinative of whether or not reciprocal compensation applies.

97. Q. WHY DOES ATTCI BELIEVE FX-LIKE TRAFFIC MUST BE SEPARATED INTO VOICE AND ISP-BOUND TRAFFIC CATEGORIES?

A. In its *ISP Remand Order*,[64] the FCC reaffirmed its previous conclusion[65] that traffic delivered to an ISP is predominantly interstate access traffic, subject to FCC jurisdiction under §201 of the Act. In its *ISP Remand Order*, the FCC established an intercarrier compensation mechanism for the exchange of such traffic. Thus, it is ATTCI's position that ISP-bound traffic, including ISP-bound FX-like traffic, is subject to the FCC's intercarrier compensation mechanism, and is not subject to the jurisdiction of state commissions. On the other hand, intrastate voice FX-like traffic is subject to the jurisdiction of the state commissions and the reciprocal compensation rates they establish for the exchange of such traffic.

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[63] Voice traffic is all non-ISP-bound traffic and may include calls that carry data, e.g., facsimile, but are otherwise indistinguishable from voice traffic.

[64] *ISP Remand Order* at ¶ 1.

[65] Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic, Declaratory Ruling in CC Docket No. 96-98

98. Q. HAVE STATE COMMISSIONS RECOGNIZED THAT ISP-BOUND TRAFFIC IS SUBJECT TO THE FCC'S JURISDICTION?

A. Yes. For example, here in Illinois, the Commission found in Essex Telecom, Inc., v. Gallatin River Communications, L.L.C. that "with the adoption of the [FCC's] ISP Remand Order, the [Illinois] Commission has been divested of jurisdiction to determine compensation issues as they relate to ISP bound calls."[66] The Commission restated this finding in the Global NAPs Arbitration with Verizon.[67]

In Connecticut Department of Public Utility Control ("DPUC") Docket No. 01-01-29, DPUC Investigation of the Payment of Mutual Compensation for Local Calls Carried over Foreign Exchange Service Facilities ("FX Decision"), the DPUC found that "[a]s of the effective date of the [FCC's] ISP Order, state commissions will no longer have the authority to address intercarrier compensation for ISP-bound traffic on a prospective basis."[68]

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and Notice of Proposed Rulemaking in CC Docket No. 99-68, 14 FCC Rcd 3689 (1999) (*Declaratory Ruling or Intercarrier Compensation NPRM).*

[66] *Essex Telecom, Inc. vs. Gallatin River Communications, L.L.C.,* Docket 01-0427, July 24, 2002, ¶ 27.

[67] *Global NAPs Illinois, Inc., Petition for arbitration pursuant to section 252(b) of the Telecommunications Act of 1996 to establish an interconnection agreement with Verizon North, Inc., f/k/a GTE North Incorporated and Verizon South, Inc,. f/k/a/ GTE South Incorporated,* Docket No. 02-0253, November 7, 2002, Page 17.

[68] Docket No. 01-01-29, DPUC Investigation of the Payment of Mutual Compensation for Local calls Carried over foreign Exchange Service Facilities ("FX Decision"), January 30, 2002, Findings of Fact at page 47.

Further, the New Hampshire Public Utilities Commission said "[b]ecause the FCC determined that inter-carrier compensation for ISP-bound traffic is within its jurisdiction under 47 USCS §201, our consideration of the issues raised in this docket excludes any rulings regarding inter-carrier compensation for ISP-bound traffic."[69]

99. Q. HAS SBC ACKNOWLEDGED THAT ISP-BOUND TRAFFIC IS SUBJECT TO THE FCC'S JURISDICTION?

A. Yes. In its Outline and Compensation Proposal filed on January 15, 2003, in Connecticut Docket No. 01-01-29RE01, SNET, an SBC company, citing to the Connecticut DPUC's final decision in Docket No. 01-01-29 referenced above, acknowledged the DPUC's finding that "[t]he FCC determined that ISP traffic is interstate and therefore subject to FCC jurisdiction."

100. Q. PLEASE EXPLAIN THE FCC'S INTERCARRIER COMPENSATION MECHANISM.

A. The FCC developed an intercarrier compensation mechanism that provides for two payment options for ISP-bound traffic. An ILEC may offer to exchange both voice traffic subject to Section 251(b)(5) and ISP-bound traffic at rate caps established for certain periods – *i.e.* $.0015 per minute of use (MOU) from June 13, 2001 to December 13, 2001; $.0010 per MOU from December 14, 2001 to June 13, 2003; and

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[69] DT 00-223, *Investigation as to whether Certain Calls are Local* and DT 00-054, *Independent*

$.0007 per MOU from June 14, 2003 until the FCC issues a further order on intercarrier compensation. In addition, the FCC imposed a cap on the total ISP-bound minutes for which a local exchange carrier may receive intercarrier compensation. If an ILEC chooses not to offer to exchange both traffic subject to Section 251(b)(5) and ISP-bound traffic under the FCC rate cap mechanism, then the FCC requires that the ILEC and CLEC exchange ISP-bound traffic at the state adopted reciprocal compensation rate.

101. Q. WHAT WAS THE FCC'S STATED BASIS FOR EXCLUDING ISP-BOUND TRAFFIC FROM SECTION 251(B)(5) TRAFFIC?

A. The FCC expressly stated that *all* traffic is subject to reciprocal compensation unless it falls within the exceptions set forth in the Section 251(g) carve out. The FCC stated that ISP-bound traffic fell within the carve out because ISP-bound traffic was a form of "information access" traffic subject to the 251(g) carve out.[70] The Commission then established an intercarrier compensation mechanism for the exchange of such traffic.

102. Q. HAS THE ISP REMAND ORDER BEEN APPEALED?

A. Yes. We have been advised by counsel that the D.C. Circuit Court of Appeals held that the FCC could not subject ISP-bound traffic to the

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Telephone Companies and Competitive Local Exchange Carriers – Local Calling Areas, Order No. 24,080, October 28, 2002, Pages 44-45.

[70] *ISP Remand Order* at ¶ 32.

Section 251(g) carve out because that carve out was meant to preserve certain compensation mechanisms that were in effect when Congress implemented the Act*, i.e*., access payments, and was not meant to create new classes of service within the meaning of the 251(g) carve out.[71] The court declined to vacate the FCC's intercarrier compensation mechanism, however, giving the FCC the opportunity to readdress the issue, which the FCC has publicly stated it intends to do in its NPRM *In the Matter of Developing a Unified Intercarrier Compensation Regime*.[72]

103. Q. HAS SBC ILLINOIS OFFERED TO EXCHANGE ALL TRAFFIC AT THE RATE CAPS ESTABLISHED BY THE FCC?

A. No. SBC Illinois and ATTCI are exchanging traffic at the reciprocal compensation rates established by this Commission.

104. Q. WHAT ARE THE IMPACTS OF SBC ILLINOIS' NOT OPTING TO EXCHANGE ALL TRAFFIC AT THE RATE CAPS ESTABLISHED BY THE FCC AND ITS RECIPROCAL COMPENSATION PROPOSALS IN THIS CASE?

A. SBC Illinois' reciprocal compensation proposals, if accepted, would minimize SBC Illinois' reciprocal compensation expense, especially for ISP-bound traffic, while carefully preserving SBC Illinois' reciprocal compensation revenues for traffic originating on other carriers'

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[71] *Worldcom, Inc. v. FCC*, 2002 WL 832541 (D.C. Cir.).

[72] In the Matter of Developing a Unified Intercarrier Compensation Regime, CC *Docket No. 01-92, Notice of Proposed Rule Making*, (Rel. Apr.27, 2001) ("Intercarrier Compensation NPRM").

networks. This would enable SBC Illinois to retain reciprocal compensation revenues when SBC Illinois is a net receiver, e.g., for traffic exchanged with providers of Cellular Mobile Radio Service ("CMRS"), and to eliminate or minimize its reciprocal compensation obligations when it is a net payer, e.g., for traffic exchanged with ATTCI.

It is ATTCI's position that SBC's approach is precisely the type of manipulation of the reciprocal compensation regime that the FCC attempted to avoid through the adoption of the rules established in the *ISP Remand Order.* In that Order the FCC specifically stated:

> It would be unwise as a policy matter, and patently unfair, to allow incumbent LECs to benefit from reduced intercarrier compensation rates for ISP-bound traffic with respect to which they are net payors, while permitting them to exchange traffic at state reciprocal compensation rates, which are much higher than the caps we adopt here, when the traffic imbalance is reversed. Because we are concerned about the superior bargaining power of incumbent LECs, we will not allow them to "pick and choose" intercarrier compensation regimes, depending on the nature of the traffic exchanged with another carrier. The rate caps for ISP-bound traffic that we adopt here apply therefore *only* if an incumbent LEC offers to exchange all traffic subject to 251(b)(5) at the same rate. (¶ 89)

Moreover, SBC Illinois actually has a *legitimate* way to reduce its reciprocal compensation payments: SBC Illinois may opt into the *ISP Remand Order's* compensation regime. But rather than exercising

this FCC-provided option to reduce its reciprocal compensation payments, SBC Illinois instead has chosen to propose ICA language that attempts to avoid the payment of reciprocal compensation while at the same time avoiding the coincident reduction in revenue that is associated with opting into the *ISP Remand Order* compensation regime.[73]

105. Q. IS THE RESOLUTION OF THIS ISSUE RELATED TO SBC ILLINOIS' CLAIM (ISSUE IC 5) THAT IT CAN INVOKE THE TERMS OF THE FCC'S ISP REMAND ORDER AT ANY TIME?

A. Yes. The outcome of this arbitration, and possibly the outcomes of other SBC Illinois arbitration proceedings, will determine whether SBC Illinois offers to exchange all traffic at the *lower* rate caps established by the FCC in its *ISP Remand Order* or continues to exchange all traffic at the *higher* state reciprocal compensation rates. If SBC Illinois is successful in avoiding payment of reciprocal compensation for ISP-bound traffic originating on its network, then it will have minimized reciprocal compensation when it is a net payer, for example for traffic exchanged with ATTCI and other CLECs. SBC Illinois would logically then want to preserve the higher State-approved reciprocal compensation rates because it will be net receiver of reciprocal compensation due to the traffic SBC Illinois exchanges with CMRS

[73] If SBC does elect to opt into the reciprocal compensation regime in the ISP Remand Order, AT&T expects that SBC would nevertheless seek to avoid its reduced reciprocal compensation

providers. Under this scenario, one would expect that SBC Illinois will not opt into the FCC's reciprocal compensation regime. On the other hand, if SBC Illinois is not successful in avoiding payment of reciprocal compensation for ISP-bound traffic originating on its network, and the balance of reciprocal compensation tips against SBC Illinois, SBC Illinois can be expected to opt into the FCC's regime to cut its reciprocal compensation payments.

Thus, in the ICA with ATTCI, SBC Illinois seeks to preserve its ability to opt into the FCC's reciprocal compensation regime at any time, so that SBC Illinois can see the outcome of this and similar arbitration proceedings before making its decision. As we stated above, this tactic is precisely the type of arbitrage of the reciprocal compensation regime that the FCC attempted to avoid through the adoption of the rules established in the *ISP Remand Order.* This Commission should reject SBC's proposals.

106. Q. DOES AT&T'S FX-LIKE ARRANGEMENT FOR ISP-BOUND TRAFFIC COMPETE WITH ANY ILEC SERVICE OFFERINGS?

A. Yes, AT&T's FX-like arrangement competes with SBC Illinois' Internet Transport Access Service ("ITAS") and with other similar Regional Bell Operating Companies' offerings, for example, BellSouth's Primary

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payments through the regulatory artifice provided by this FX compensation issue.

Rate ISDN Extended Reach service ("ERS")[74] and Verizon's Internet Protocol Routing Service ("IPRS").[75] SBC Illinois offers ITAS in its Ameritech Operating Companies Tariff F.C.C. No. 2, Section 20. Following are excerpts from SBC Illinois' Tariff:

> 20.1 Service Description
>
> Internet Transport Access Service (ITAS) is a switched (sic) based, data transport service that aggregates and hands off traffic using a one-way data connection to the customer. The customer is defined as an entity providing dial access service via a data switch. ITAS will support calls from analog modem users or ISDN Basic Rate Interface (BRI) lines. ITAS is provisioned through the use of end office (EO) switching, and transport from the Telephone Company's EO. Dial-Up user data is transmitted to the customer via dedicated EO port groups. Routing of end user traffic to the customer's data switch requires Signaling System 7 (SS7) call setup . . .
>
> 20.2 Service Components
>
> ITAS consists of the following service components as described below.
>
> A. Telephone Numbers
>
> ITAS is accessed by end users dialing telephone numbers dedicated to the customer's service and within their designated calling scope. All telephone numbers will be routed to Telephone Company provided dedicated

[74] BellSouth Telecommunications, Inc., Georgia, General Subscriber Service Tariff, Section A42.3.1 - A42.3.4.

[75] The Verizon Telephone Companies, Tariff F.C.C. No. 1, Section 16.5.

switch ports. There will be a minimum of one telephone number per connected EO.

B. Access Port Groups

Allows end users, located within a specific local exchange area, dial access to the customer. The access port consists of local switching, and a dedicated EO switch port to the customer and will be provisioned with Telephone Company Provided Telephone Numbers (TPTN).

Thus, SBC Illinois offers ISPs an access service that includes (1) the provision of local telephone numbers in each local calling area, and (2) the use of SBC Illinois' local switches to collect the calls, and (3) transport from SBC Illinois' local switches to the ISP customer's location. It is important to note that the ISP customer is not physically located in each local calling area. In fact, the ISP could be physically located at only one location within a LATA. If an ATTCI end user subscribes to an ISP using SBC Illinois' ITAS, and dials the local telephone number SBC Illinois has assigned to the ISP, ATTCI will pay reciprocal compensation to SBC Illinois based on the originating and terminating NPA-NXXs even though the ISP subscriber is not physically located in the local calling area.

It is instructive to note that SBC Illinois filed its ISP ITAS service offering in its Interstate Tariff, not as an intrastate tariff here in Illinois.

107. Q. WHAT IS ATTCI'S RECOMMENDATION ON ISSUE IC 2(b)?

A. The Commission should rule that absent SBC Illinois' offer to exchange traffic at the rate caps specified by the FCC in the *ISP Remand Order*, the existing Commission-approved reciprocal compensation rates apply to ISP-bound traffic, including ISP-bound FX-like traffic, exchanged between ATTCI and SBC Illinois.

Issue IC 2(c): AT&T Issue: Should Non-ISP-bound FX-like traffic be compensable pursuant to the reciprocal compensation provisions of Section 251(b)(5) of the Act? (Article 21, Sections 21.2.7 and 21.2.8)

SBC Issue: Should local calls be defined as calls that must originate and terminate to End Users physically located within the same common or mandatory local calling area? Article 21, Sections 21.2.7 and 21.2.8)

108. Q. PLEASE DESCRIBE THE ISSUES IN IC 2(c).

A. In Section 21.2.7 of the ICA, SBC Illinois proposes to define "local calls" as calls that "actually originate and actually terminate to end users physically located within the same common local or common mandatory [legacy SBC] local calling area within operating areas where SBC-Illinois is the ILEC." SBC Illinois then proposes that such definition apply *only* for purposes of determining a party's reciprocal compensation obligations. SBC Illinois' language is squarely aimed at eliminating SBC Illinois' reciprocal compensation obligations for traffic originating on its network and terminating to ATTCI's FX-like arrangements. ATTCI disagrees with SBC's proposal, and also disagrees with related language SBC Illinois is seeking to add in Section 21.2.8 stating that if the calling or called party is physically

located outside the legacy SBC Illinois local calling area of the exchange to which the number is assigned, the call is either Feature Group A ("FGA") or FX Traffic, and such calls are not Local Calls for intercarrier compensation and are not subject to local reciprocal compensation. Thus, if SBC Illinois loses its argument regarding the definition of Local Calls for reciprocal compensation purposes (Section 21.2.7), the language in Section 21.2.8 still allows SBC Illinois to avoid paying reciprocal compensation for such calls because such calls are FX or FGA, and are not subject to reciprocal compensation.

As we explained in our testimony on Issue IC 2(b), ISP-bound traffic is subject to the compensation mechanism established by the FCC in its *ISP Remand Order*. Therefore, the Commission will be considering the applicability of SBC Illinois' proposed definitions in Sections 21.2.7 and 21.2.8 as they relate to non-ISP-bound or voice FX traffic. It is ATTCI's position that under the FCC's ISP Remand Order, *all* traffic is subject to reciprocal compensation unless the traffic falls within the exemptions established in Section 251(g) of the Act. As explained below, Voice FX-like traffic does not fall within the Section 251(g) carve out.

Further, if SBC Illinois' proposed definition is adopted, and applied even-handedly to all services where customers do not physically reside in the rate center associated with the NPA-NXX code,

as opposed to a singular FX exception that SBC Illinois believes benefits it, the impact on the industry will be far reaching and very expensive. In fact, our testimony will show that there are no concrete, workable solutions to implement SBC Illinois' definition across all services.

109. Q. WHAT IS SBC ILLINOIS'S POSITION REGARDING COMPENSATION FOR FX TRAFFIC?

A. SBC Illinois' position is that FX calls are not local calls for intercarrier compensation purposes and are not subject to local reciprocal compensation. SBC Illinois proposes that FX traffic be subject to a "Bill and Keep" arrangement in which neither Party charges the other for terminating traffic that originates on the other network.

110. Q. WHAT SUPPORT DOES SBC ILLINOIS PROVIDE FOR ITS POSITION?

A. SBC Illinois' entire position on this Issue relies on its assertions that (1) ATTCI's FX-like traffic is not local, and therefore should not be subject to reciprocal compensation, and (2) ILECs that do not offer to exchange all traffic at the rate caps established by the FCC are required by the "mirroring" rule in ¶ 89 of the FCC's ISP *Remand Order* to exchange both voice and ISP-bound traffic at the same compensation. As support for its first assertion, SBC Illinois points to the FCC's ruling in its 1996 *First Report and Order* that "traffic originating or terminating outside of the applicable local area would be

subject to interstate and intrastate access charges" and not reciprocal compensation. However, the FCC's ruling in the *First Report and Order* was the direct consequence of the FCC's conclusion that "section 251(b)(5) reciprocal compensation obligations should apply only to traffic that originates and terminates within a local area."[76] As we will explain, in the *ISP Remand Order*, the FCC repudiated the local/non-local distinction and it is no longer a part of the FCC's regulations. In fact, in the *ISP Remand Order*, the FCC said "[i]n the *Local Competition Order*, as in the subsequent *Declaratory Ruling*, use of the phrase "local Traffic" created unnecessary ambiguities, and we correct that mistake here."[77] (emphasis in original) In addition, as we will discuss below, SBC Illinois' position on the "mirroring" rule is based on faulty reasoning and is incorrect.

111. Q. WHAT IS ATTCI'S POSITION REGARDING COMPENSATION FOR NON-ISP-BOUND ("VOICE") FX-LIKE TRAFFIC?

A. ATTCI's position is that under the FCC's ISP Remand Order, *all* traffic is subject to reciprocal compensation unless the traffic falls within the exemptions established in Section 251(g) of the Act. As explained below, voice FX-like traffic does not fall within the Section 251(g) carve

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[76] See, for example, ¶ 1034 of the First Report and order, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 11FCC Rcd 15499 (1996), ("Local Competition Order").

[77] *ISP Remand Order* at ¶ 46.

out. Moreover, the FCC has specifically declined to use the local/non-local distinction to determine whether reciprocal compensation applies.

112. Q. WHY IS THE LOCAL/NON LOCAL DISTINCTION NOT PERTINENT TO DETERMINING IF RECIPROCAL COMPENSATION APPLIES OR DOES NOT APPLY TO TRAFFIC?

A. In its *ISP Remand Order*, the FCC found that it had erred in attempting to distinguish between local and long distance traffic for the purpose of determining when reciprocal compensation should apply.[78] The FCC said "the term 'local,' not being a statutorily defined category, is particularly susceptible to varying meanings and, significantly, is not a term used in section 251(b)(5) or section 251(g)."[79] Specifically, in the *ISP Remand Order*, the FCC expressly stated that:

> "Unless subject to further limitation, section 251(b)(5) would require reciprocal compensation for transport and termination of *all* telecommunications traffic, -- *i.e.,* whenever a local exchange carrier exchanges telecommunications traffic with another carrier. Farther down in section 251, however, Congress explicitly exempts certain telecommunications services from the reciprocal compensation obligations. Section 251(g) provides:
>
> > On or after the date of enactment of the Telecommunications Act of 1996, each local exchange carrier . . . shall provide exchange access, *information access,* and exchange services for such access to interexchange carriers and information

[78] *ISP Remand Order at* ¶ 26.
[79] *Id*. at ¶ 34.

> service providers in accordance with the same equal access and nondiscriminatory interconnection restrictions and obligations (including receipt of compensation) that apply to such carrier on the date immediately preceding the date of enactment of the Telecommunications Act of 1996 under any court order, consent decree or regulation, order, or policy of the [Federal Communications] Commission, until such restrictions and obligations are explicitly superceded by regulations prescribed by the Commission after such date of enactment."[80] (Emphasis in original)

Thus, the FCC concluded that, under the Act, *all traffic* is subject to reciprocal compensation under Section 251(b)(5), unless it falls within the exemptions established in the Section 251(g) carve out.[81]

113. Q. DID THE FCC REVISE ITS RULES TO REFLECT ITS FINDINGS IN THE ISP REMAND ORDER?

A. Yes. The FCC amended 47 C.F.R. Part 51, Subpart H, to eliminate use of the term "local" and revised 47 C.F.R. Section 51.701(b)(1) to change the definition of services subject to Section 251(b)(5) of the Act. Prior to this amendment, under Section 51.701(b)(1), reciprocal compensation applied to "Telecommunications traffic between a LEC and a telecommunications carrier other than a CMRS provider that originates and terminates within a local service area established by the

[80] *Id.* at ¶ 32 (footnote omitted).

state commission." Now, under Section 51.701(b)(1), as amended by the FCC in the *ISP Remand Order*,[82] reciprocal compensation applies to "Telecommunications traffic exchanged between a LEC and a telecommunications carrier other than a CMRS provider, except for telecommunications traffic that is interstate or intrastate exchange access, information access, or exchange services for such access." These exceptions are known as the Section 251(g) "carve out" items.

114. Q. DOES VOICE FX-LIKE TRAFFIC FALL WITHIN THE SECTION 251 CARVE OUT?

A. No. First, as noted above, we have been advised by counsel that the D.C. Circuit Court of Appeals, in ruling on an appeal of the *ISP Remand Order*, held that the Section 251(g) carve out was meant to preserve certain compensation mechanisms that were in effect when Congress implemented the Act, and was not meant to create new classes of service within the meaning of the Section 251(g) carve out. Therefore, we have been advised, Section 251(g) temporarily "grandfathered" pre-existing federal compensation rules governing "exchange access" and "information access" traffic between, on the one hand, LECs which were in existence on February 8, 1996, and, on the other hand, IXCs or information service providers. Thus, it is ATTCI's position that since there were no such rules with respect to

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[81] *Id*. at ¶ 46.

voice FX-like traffic when the Act was passed, Section 251(g) cannot be relied upon by SBC Illinois to excuse its payment of reciprocal compensation for this traffic.

It is also ATTCI's position, however, that even if such pre-existing compensation rules for FX-like traffic had existed, they would not be grandfathered by Section 251(g), because FX-like traffic is not "exchange access." The Act states that "'[E]xchange access' means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services."[83] "Telephone toll service," in turn, is defined by the Act as "telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service."[84] As explained later in our testimony, ATTCI does not impose a separate charge on its end users for its FX-like arrangement, but instead includes it as part of its basic local service offering.

Further, we note that the FCC found in the Virginia Arbitration Order that for the purpose of rating traffic, the NPA NXX of the calling and called parties are the determining factors – not the physical

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[82] *Id.* at ¶ 112.
[83] 47 U.S.C. § 153(16).
[84] *Id.* Section 153(48) (emphasis added).

location of the calling and called parties.[85] Thus, a call would qualify as toll service if the originating and terminating NPA-NXX of the calling and called parties were in different exchanges, and if a separate charge – not included in exchange service offerings – was imposed. Therefore, by definition, ATTCI's FX-like traffic is not exchange access traffic and thus is not included within the exemption for reciprocal compensation, but is subject to reciprocal compensation.

115. Q. DOES SBC AGREE THAT THE LOCAL/NON-LOCAL DISTINCTION IS NO LONGER RELEVANT TO DETERMINING IF RECIPROCAL COMPENSATION APPLIES OR DOES NOT APPLY TO TRAFFIC?

A. Apparently it has, at least outside Illinois. Following is an excerpt from the Michigan Commission's Opinion and Order in Case No. U-122952:

> Ameritech Michigan objects and argues that the previous Commission orders finding that FX calls are subject to reciprocal compensation under 47 USC 251(b)(5) did so based on the finding that FX calls are local. That finding, Ameritech Michigan argues, is contrary to current law. It argues that the ISP Remand Order ruled that the question of whether traffic is or is not subject to reciprocal compensation under Section 251(c)(5) does not turn on whether the traffic is local. Rather, Ameritech Michigan argues, the FCC amended 47 CFR 51.701 by deleting the word "local" from the rule and establishing new determinants for whether particular traffic is subject to reciprocal compensation. Although Ameritech Michigan acknowledges that the ISP Remand Order did not specifically discuss the effect of the new rule on FX calls, it argues that the FCC changed the rules and the analysis to be undertaken when determining this

[85] *Virginia Arbitration Order*, ¶ 301.

issue. It argues that the arbitration panel failed to reconsider the question under the rules that now apply.[86]

116. Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE IC 2(c)?

A. The Commission should conclude that Voice FX-like traffic does not fall within the Section 251(g) carve out and therefore is subject to the reciprocal compensation requirements of Section 251(b)(5) of the Act.

117. Q. WHAT ABOUT SBC ILLINOIS' POSITION THAT FX TRAFFIC SHOULD BE SUBJECT TO "BILL AND KEEP"?

A. SBC Illinois' position is simply wrong. Because voice FX-like traffic does not fall within the Section 251(g) carve out, it is subject to reciprocal compensation. There is no reason to convert such traffic into a "Bill and Keep" arrangement.

118. Q. IF THE COMMISSION NEVERTHELESS RELIES ON THE LOCAL/NON-LOCAL DISTINCTION TO DETERMINE IF RECIPROCAL COMPENSATION APPLIES TO NON-ISP FX LIKE TRAFFIC, HOW SHOULD IT DETERMINE WHETHER SUCH TRAFFIC IS LOCAL OR NON-LOCAL?

A. Even if the Commission were to rely on the local/non-local distinction to determine whether reciprocal compensation applies, rather than on whether the traffic falls within the Section 251(g) carve out, the result would be the same because the characterization of traffic for rating purposes should be based on the originating and terminating

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[86] *Opinion and Order*, *Petition for Arbitration to Establish an Interconnection Agreement between TDS Metrocom, Inc. and Ameritech Michigan*, Case No. U-12942, at 22 (Mich. PSC Sept. 7, 2001), Page 23.

telephone numbers. Thus, if the originating and terminating NPA-NXXs fall within the same local calling area of the calling party, then the traffic would be subject to reciprocal compensation.

Categorizing and rating calls based on the physical location of the customer's premise, rather than the NPA-NXX information, would be a significant departure from the efficient and accurate process currently in place and used by the industry nationwide, and would impose significant and unnecessary costs on ATTCI and other CLECs. In fact, at present, there is no viable alternative to the current system under which carriers rate calls by comparing the originating and terminating NPA-NXXs.[87] Therefore, using other schemes such as the customer's physical location will be a costly endeavor impacting both customers and carriers with no corresponding public benefit.

119. Q. WOULD SBC ILLINOIS HAVE TO BEAR ADDITIONAL COSTS IF ATTCI'S POSITION WERE ADOPTED?

A. No, not at all. ATTCI is not asking SBC Illinois to build anything to enable ATTCI to provide its FX-like arrangement. Moreover, SBC Illinois' costs to deliver a call to ATTCI do not vary depending on whether the call is destined to a customer in the calling party's native

[87] Federal Communications Commission, CC Docket No. 00-251, *In the Matter of the Petition of AT&T Communications of Virginia, Inc., pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc*., Memorandum Opinion and Order, released July 17, 2002, (*"Virginia Arbitration Order"*), ¶ 301.

rate center or a customer in a foreign rate center. The cost to SBC Illinois is exactly the same. This is true because SBC Illinois delivers all traffic bound to the same ATTCI NPA-NXX to the same ATTCI POI where traffic is exchanged with SBC Illinois' network. In other words, ATTCI specifies a single POI for an NPA-NXX, regardless of the physical location of the ATTCI terminating customer. Since the POI to which SBC Illinois delivers traffic is the same, SBC Illinois' network costs to deliver traffic to that POI are necessarily the same. Where there are any additional costs between ATTCI's switch and the customer to complete such traffic, such costs are borne by ATTCI. Thus, from the standpoint of reciprocal compensation, SBC Illinois should be financially indifferent as to where calls are terminated within the ATTCI network, since the physical location of the customer has no effect on the rates SBC Illinois pays for transport and termination of the calls.

120. Q. PLEASE DESCRIBE SBC ILLINOIS' AND ATTCI'S NETWORK ARCHITECTURES.

A. SBC Illinois' network has been deployed over the past hundred years to provide ubiquitous service across the territory it serves. We would describe SBC Illinois' network as a multi-layer or tiered network. The base of this network was deployed when there were significant distance limitations on local loop technology, resulting in many switches deployed in the neighborhoods. Therefore, SBC Illinois has

many end office switches spread out over its service area and installed in the neighborhoods populated by its customers. An overlaying network of tandem switches interconnects these end office switches. When certain volume levels are achieved and it is cost effective, SBC Illinois establishes high usage trunk groups that directly link end office switches.

Facilities-based CLECs, such as ATTCI, which enter a market with few or no local customers at the outset, are faced with the considerable challenge of how and where to profitably deploy transport facilities and switching systems, considering the relatively low density of customers and traffic volume forecasted over the planning period. One area of technological advancement that has made facilities-based market entry a possibility is the substantial decrease in the cost of high-capacity fiber-optic facility systems. Accordingly, ATTCI's switches are deployed to take advantage of the efficiencies of today's transport technology. This allows ATTCI to reduce somewhat the negative economics associated with deploying a network for an initially small customer base.

Currently, AT&T has a menu of options that it can use to economically connect end users located relatively far from a switch. These options include: (1) high capacity fiber optic rings to commercial buildings and multiple dwelling units; (2) fixed wireless technology such

as 38 gHz systems, (3) UNE loop resale through ATTCI collocation in SBC's end offices, and (4) dedicated high-capacity facilities. Due to the very high initial cost of switching platforms as compared to the lower incremental cost of high-capacity facility systems, ATTCI has chosen to deploy fewer switches and more transport on the end-user side of the switch. Even where ATTCI has determined the need for multiple switches within a LATA, they are often collocated within the same building to reduce real estate costs and to rely upon centralized technical staff.

121. Q. PLEASE DESCRIBE FX SERVICE.

A. Traditional FX service, which is offered by SBC Illinois, involves the provision of local dial tone to a customer from a remote local switch; that is, a switch other than the switch from which the customer would ordinarily receive local dial tone. An FX arrangement simply allows a customer to be assigned a telephone number and to receive calls as if he or she was located in a given exchange, regardless of the physical location of the customer. In the SBC Illinois network, this is accomplished via the provision of remote dial tone – that is dial tone from the foreign switch (i.e., in a distant serving wire center or foreign rate center) that is connected to the customer's native serving wire center (i.e., in the home rate center) via an interoffice private line facility for which the FX subscriber pays. Under the FCC's long-

standing Separations policies, all retail FX revenue is deemed to be basic local service revenue (47 CFR 36.212(B)).

SBC Illinois offers FX service as ***local exchange service*** **(not an access service and not a toll service)** in its Tariff.[88] The SBC Illinois Tariff states that the "rate for Foreign Exchange service is (1) the usage rate in effect in the Foreign Exchange for the type and class of service furnished as specified in Section 2 of this PART, Paragraph 3; (2) the access rate for the access area in which the customer is physically located as specified in Section 2, Paragraph 2; and the following mileage charges . . . ."[89] Thus, when an SBC Illinois customer dials a number assigned to the customer's own legacy rate center and SBC Illinois routes that call to a SBC Illinois FX customer who is physically located in a different legacy SBC Illinois rate center, SBC Illinois treats the call as a local call, not as a toll call. That is, the SBC Illinois end user that originated the call pays SBC Illinois' local charges for that call.

122. Q. DOES ATTCI PROVIDE ITS FX-LIKE ARRANGEMENT USING A REMOTE DIAL TONE CONFIGURATION?

A. No. As I will explain below, because of the differences in network architecture, it is not necessary for ATTCI to use a remote dial tone

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[88] Ameritech, Illinois Bell Telephone Company, Telecommunications Services Tariff, ILL. C. C. NO. 20, Part 4, Section 3, 1st Revised Sheet No. 1, ¶ 1.1.

configuration to provide an FX-like arrangement that provides its customers with the same functionality as SBC Illinois' FX service. ATTCI's local exchange service provides ATTCI's customers with the option to be assigned a telephone number in a location that is different from the customer's actual location. The FX-like arrangement is not an FX service in the traditional sense because the NPA-NNXs assigned to ATTCI, including the "foreign" exchange NPA-NXX and the "native" NPA-NXX associated with the customer's physical location, all reside in the same ATTCI switch (wire center). This is true because with ATTCI's network architecture, the NPA-NXXs associated with many SBC Illinois legacy rate centers commonly reside in one ATTCI switch. Therefore, ATTCI does not require private line arrangements such as those used by SBC Illinois to connect two separate wire centers, the one serving the customer and the one serving the foreign NPA-NXX.

123. Q. DOES ATTCI CHARGE ITS CUSTOMERS FOR THIS FX-LIKE ARRANGEMENT?

A. No. ATTCI, unlike SBC Illinois, offers this local service provisioning option at no additional charge to its end users. This option is attractive to local telephone customers with an inbound or outbound traffic requirement in a particular area. ATTCI sees its service offering as a way to differentiate itself from SBC Illinois and to take advantage of the

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89 *Id.* at ¶ 1.7.

efficiency of its different network architecture, to the benefit of its customers.

124. Q. PLEASE EXPLAIN IN MORE DETAIL HOW THE DIFFERENCES IN NETWORK ARCHITECTURE BETWEEN SBC AND ATTCI ENABLE ATTCI TO PROVIDE THIS FX-LIKE ARRANGEMENT IN AN EFFICIENT MANNER.

A. As we previously described, there are fundamental differences between the legacy network architecture deployed by SBC Illinois and the network architecture deployed by ATTCI. SBC's network consists of numerous local switches, each of which provides dial tone to customers located within the wire center served by the switch. These local switches are connected by tandem switches until there is a sufficient volume of traffic to justify establishing direct connections between the local switches. By contrast, ATTCI provides dial tone from a few switches using high capacity fiber-optic transmission facilities, each of which covers multiple SBC Illinois serving wire centers and associated rate centers.

SBC's traditional FX service is comprised of: (1) a local loop connecting the customer's premises to the customer's serving (native) wire center; (2) a dedicated interoffice private line facility between the customer's native wire center and the foreign switch; and (3) local dial tone from a foreign end office switch. The customer of a traditional FX service pays SBC for the local loop, monthly fixed and per-mile

charges for the dedicated interexchange facility, and the usage rate in effect in the foreign exchange.

In contrast, ATTCI's FX-like local service offering is comprised of a single switch (a single wire center) and the local loop. There is no dedicated interoffice facility component and there is no foreign switch. This distinction is important since the definition of traditional FX service is the provision of dial tone from a foreign switch or exchange. In ATTCI's network, dial tone is provided by the customer's native switch, not a foreign switch. Since ATTCI's switch serves a much broader geographic area than do SBC Illinois' individual local switches, ATTCI is able to terminate traffic to customers within different SBC Illinois legacy rate centers at comparable cost. Hence, from the perspective of ATTCI's network, there is no difference in function or cost to terminate a call in one rate center versus another, and thus ATTCI can offer this service option at no additional charge to the customer as part of its local service offering. This is an important distinction, because the Act defines telephone toll service as follows:

> The term "telephone toll service" means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service.[90]

[90] 47 U.S.C. §153(48).

Thus, ATTCI's FX-like arrangement is not a toll service and is not subject to access charges that apply to toll services.

125. Q. IS THIS ISSUE RELATED TO THE CALLING PARTY'S NETWORK PAYS REGIME?

A. Yes. The FCC stated in the Intercarrier Compensation NPRM, "Existing access charge rules and the majority of existing reciprocal compensation agreements require the calling party's carrier, whether LEC, IXC, or CMRS, to compensate the called party's carrier for terminating the call. Hence, these interconnection regimes may be referred to as "*calling-party's-network-pays"* (or CPNP)".[91] The fundamental principle of the CPNP regime is that the party collecting the revenue for a call (*i.e.*, the originating party in the case of local exchange service) compensates the other party for the use of its network. Under the CPNP regime, ATTCI is entitled to recover its costs to terminate local exchange traffic originating on SBC Illinois' network.

ATTCI's position in this case is fully consistent with the CPNP regime in place in Illinois. There is simply no public interest or equity reason that this Commission should rule that ATTCI's non-ISP bound FX traffic is an exception to the CPNP regime. The Commission

[91] *Intercarrier Compensation NPRM*, ¶ 9.

should come to the conclusion that ATTCI's FX-like traffic should be compensated in the same manner as all other telecommunications traffic other than exchange access and information access traffic.

126. Q. WHAT IS SBC ILLINOIS' POSITION REGARDING THE USE OF NPA-NXX CODES TO DETERMINE THE RATING OF FX-LIKE TRAFFIC?

A. SBC Illinois asserts that, for purposes of reciprocal compensation, the parties should use the physical locations of the customers, not the NPA-NXX codes, to determine if a call is subject to reciprocal compensation or is subject to SBC Illinois' "Bill and Keep" proposal. Also, for reciprocal compensation purposes, SBC Illinois proposes that both parties should mirror SBC Illinois' legacy local calling areas.

Thus, if an SBC Illinois customer dials a number assigned to an ATTCI assigned NPA-NXX in the customer's own legacy SBC Illinois rate center, and ATTCI picks up that call in the SBC Illinois rate center and routes that call to the ATTCI customer who happens to be located in a different legacy SBC Illinois rate center, the call would be treated as a "Bill and Keep" under SBC Illinois' proposal. Since it is ATTCI's position that traffic should be rated based on the NPA-NXX code assigned to the customer, without regard to the customer's physical location, the call described above, which is to a number in the customer's own legacy rate center, would be a local call for which SBC Illinois would pay ATTCI reciprocal compensation and vice versa.

127. Q. WHAT IS AN "NPA-NXX"?

A. "NPA-NXX" refers to the first six numbers of a 10-digit telephone number. For example, in the telephone number 312-230-1212, the Number Plan Area ("NPA") or area code is 312, the exchange or central office code is 230, and the NPA-NXX is 312-230.

128. Q. WHAT FUNCTION DOES THE NPA-NXX PLAY IN ROUTING TELEPHONE CALLS?

A. Telephone calls are routed electronically based on the numbers dialed by the originating caller. Each telephone number (NPA-NXX-XXXX) is assigned to a specific switch that serves that particular telephone number, such that dialing the telephone number correctly routes a call to the called party.

129. Q. WHAT FUNCTION DOES THE NPA-NXX PLAY IN RATING TELEPHONE CALLS?

A. NPA-NXX rating is the established industry-wide compensation mechanism. Carriers rate calls by comparing originating and terminating NPA-NXX codes. By comparing the originating and terminating NPA-NXX, a carrier is able to identify a call as local or intraLATA toll or interLATA toll and to bill its customers and other carriers accordingly. Also, when customers get their bill, they look at the telephone numbers to see if they have been billed correctly.

130. Q. WHY DO CARRIERS RATE CALLS BY COMPARING ORIGINATING AND TERMINATING NPA-NXX CODES?

A. Telecommunications billing (whether between a telecommunications provider and its retail customers or between two telecommunications companies) is based on electronically generated and recorded data known as Automated Message Accounting ("AMA") information.[92] AMA records are automatically generated by telecommunications switches and include the information necessary to allow the originating and terminating carriers to generate bills, i.e., originating and terminating telephone numbers, switch identification and the length of the call. Interconnection billings for reciprocal compensation, access charges and end-users are based on these AMA records.

Using the NPA-NXX designations in the AMA records, and a database known as the Local Exchange Routing Guide, or LERG, calls are electronically sorted by comparing the originating NPA-NXX with the terminating NPA-NXX in order to categorize the call as a local, EAS, intraLATA toll, interLATA toll, etc. The terminating carrier then bills the originating carrier based on this information. In addition, the originating and terminating LECs use this information to bill access charges to interexchange carriers.

131. Q. IS THE RATING AND BILLING OF TRAFFIC BASED ON AMA RECORDS UNIQUE TO AT&T AND SBC?

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[92] AMA is the automated message accounting structure included in the switch that records telecommunication message information. AMA format is specified in Telcordia standard GR-1100-CORE, which defines the industry standard for message recording.

A. No. This is the established industry-standard process used by all telecommunications companies to rate telecommunications traffic. Switches have been designed by their manufacturers to collect this information, and the carriers' billing processes and systems have been designed to allow the carriers to automatically and efficiently rate millions of telephone calls each month, and to bill that traffic to retail customers and to other carriers. There is no other workable method in existence at this time. Changing to a system based on the geographic location of the customers, communicating that information to every interconnecting local service provider and interexchange carrier, and merging that data with the current industry billing processes would require an enormous developmental effort on an industry-wide basis that would take years to complete.

132. Q. HAS SBC ILLINOIS OFFERED ANY RATIONALE THAT EXPLAINS WHY THE JURISDICTION TEST THE INDUSTRY HAS HISTORICALLY USED TO RATE CALLS FOR WHOLESALE AND RETAIL BILLING PURPOSES IS NOW INAPPROPRIATE TO USE FOR DETERMINING ELIGIBILITY FOR RECIPROCAL COMPENSATION?

A. No. Historically, an end-to-end analysis using the physical location of the end users has been used to determine Federal versus State jurisdiction, but the originating and terminating NPA-NXX codes have been used to determine the application of rates to services for carrier and end user billing. This is true for all services, including a host of services where the customer is not, or may not be, physically located

in the local service area of the NPA-NXX code used, such as SBC's Foreign Exchange Service, Foreign Central Office Service, Answer Line Service, Centrex and PBX Off Premise Extensions, Call Forwarding, Remote Call Forwarding, calls between private networks and the public switched network. SBC Illinois has simply asserted that for one subset of traffic, FX and FX-like calls, the physical locations of the calling and called parties should be used to determine whether a call is eligible for reciprocal compensation under §251(b)(5) of the Act or is subject to SBC Illinois' "Bill and Keep" proposal.

133. Q. HAS SBC ILLINOIS HISTORICALLY RATED CALLS TO ITS SUBSCRIBERS IN THE MANNER IT IS NOW PROPOSING FOR FX/FX-LIKE CALLS?

A. No. As we understand it, SBC Illinois is proposing to rate FX calls differently for reciprocal compensation purposes then for retail billing purposes. SBC's FX service has historically rated calls as local or toll based on the NPA-NXX of the originating telephone number and the NPA-NXX of the dialed telephone number. This is true whether the calls are from customers served by SBC Illinois, or CLEC or an independent telephone company. This convention has always been used by SBC Illinois and the industry for billing purposes and is embedded in the call recording, rating and billing software used by all carriers.

134. Q. IF THE COMMISSION ADOPTS SBC ILLINOIS' DEFINITION OF LOCAL SERVICE FOR PURPOSES OF RECIPROCAL COMPENSATION, SHOULD IT APPLY THE SAME STANDARD TO ALL SERVICES?

A. Logically, yes. If the Commission finds that SBC Illinois' rationale for its argument is compelling, then, logically, the Commission should find such rationale equally compelling for all services and not just a singular service in which SBC Illinois believes the definition is favorable to it. Again, logically, such a finding should apply equally for rating and billing end users as well as for rating and billing intercarrier compensation. There is simply no logical reason to apply such a finding to only one service and to only the carriers' reciprocal compensation obligations for such service.

135. Q. WOULD A CHANGE TO USING THE PHYSICAL LOCATION OF THE CALLING AND CALLED PARTIES HAVE A MAJOR IMPACT ON THE TELECOMMUNICATIONS INDUSTRY?

A. Yes, it absolutely would. Such change would have a major impact on the call recording, rating and billing systems used by SBC Illinois, other CLECs and independent companies, and could affect the determination of the carrier that handles the call and how the call is routed. For example, if a call is deemed to be toll as opposed to local, then the LEC serving the calling party would hand the call off to the calling party's presubscribed intraLATA long distance carrier at the carrier's point of presence, or POP, for completion. On the other hand, if the call were deemed local, the originating LEC would handle the call

end to end if it served the called party, or would hand the call off at the POI to terminating carrier, if the called party were served by another LEC.

136. Q. CAN YOU PROVIDE AN EXAMPLE AND EXPLAIN THE CHANGES THAT WOULD BE REQUIRED TO USE THE CUSTOMER'S PHYSICAL LOCATION INSTEAD OF THE NPA-NXX CODE TO DETERMINE CALL RATING AND BILLING?

A. Yes, and I will use Call Forwarding Service as an example. Today, a customer can have calls to his assigned telephone number in one exchange forwarded to another number in a second exchange. With SBC Illinois' Call Forwarding Service, the customer can forward the call to any number in the United States and, with Remote Call Forwarding, can change the forwarded-to telephone number from any telephone number as often as the customer desires. To date, the telephone industry has treated such calls as two separate calls for rating and billing purposes: An initial local call to the Call Forwarding subscriber's telephone number and a second call from that number to the forwarded-to number, which can be either local or toll. Under SBC Illinois' position that the *physical locations* of the calling and called parties must be used to rate calls, the two calls described above would have to be rated as one call and that would create problems for the industry and customers.

137. Q. PLEASE EXPLAIN THE PROBLEMS THIS WOULD CREATE.

A. If the initial call to the Call Forward subscriber is a local call handled by SBC Illinois, and the call to the forward-to number is either local or toll, SBC Illinois can set up the call to the forward-to number and bill the Call Forward subscriber for any applicable local or toll charges, as is the practice today. But if the initial call to the subscriber's telephone number is a local call handled by another LEC, or toll call handled by another LEC or an interexchange carrier, and the second call is a toll call, then rating problems develop.

Since the call has to be billed as an end-to-end call, there are two ways the call could be handled. First, SBC Illinois could pass the forwarded-to telephone number back to the carrier handling the initial local or toll call to the Call Forward subscriber and that carrier would then set-up the overall call between the calling party and the forwarded-to number and would then bill the calling customer. Note that the calling party will be billed either for a toll call when he/she thought he/she was making a local call, or for a toll call to a different telephone number and perhaps city than he/she dialed. Second, SBC Illinois could hold the connection for the first call, set-up the second toll call and tie the two calls together. Of course, SBC Illinois would also have to (1) arrange for the first carrier not to bill the calling customer for the initial toll call; (2) compensate the first carrier for the costs it incurs, including access charges, for the initial toll call (note that the

first carrier's connection remains in place for the duration of the overall call); and (3) bill the Call Forward subscriber for the end-to-end rated toll call. In either case, it would be difficult to implement SBC Illinois' jurisdiction determination proposal for call forwarding services. Moreover, such implementation would require changes in the network signaling, recording and billing arrangements used by the industry.

138. Q. HAS ATTCI ATTEMPTED TO PRICE OUT THE COST OF USING THE PHYSICAL LOCATION OF THE CALLING AND CALLED PARTIES FOR CALL RATING AND BILLING?

A. No. Such a change would involve changing the routing, rating and billing for a number of different services including SBC's Foreign Exchange Service, Foreign Central Office Service, Answer Line Service, Centrex and PBX Off Premise Extensions, Call Forwarding, Remote Call Forwarding, and calls between private networks and the public switched network. In all of these cases, one or both of the customers may not reside in the NPA-NXX used for the call. Of course, in some cases like private networks, it will not be possible to determine the physical location of the customer on a call-by-call basis.

139. Q. PLEASE COMMENT ON SBC ILLINOIS' POSITION THAT THE FCC'S "MIRRORING" RULE REQUIRES BOTH VOICE AND ISP-BOUND FOREIGN EXCHANGE (FX) TRAFFIC TO BE COMPENSATED IN THE SAME MANNER AND THUS FX VOICE AND FX ISP TRAFFIC ARE SUBJECT TO BILL AND KEEP.

A. SBC Illinois' position is based on faulty reasoning and is incorrect. As support for its position, SBC Illinois points to ¶ 89 of the FCC's *ISP Remand Order*, which states:

> For those incumbent LECs that choose *not* to offer to exchange section 251(b)(5) traffic subject to the same rate caps we adopt for ISP-bound traffic, we order them to exchange ISP-bound traffic at the state-approved or state-arbitrated reciprocal compensation rates reflected in their contracts. This "mirroring" rule insures that incumbent LECs will pay the same rates for ISP-bound traffic that they receive for section 251(b)(5) traffic. (emphasis in original)

Apparently, SBC Illinois believes that if the Commission (1) finds that non-ISP-bound (voice) FX traffic is an exchange service but is not subject to the Section 251(b)(5) reciprocal compensation requirement, and (2) adopts a bill and keep regime for such voice FX traffic, then the FCC's "mirroring" rule compels the same bill and keep regime for ISP-bound FX traffic. SBC Illinois is wrong.

140. Q. PLEASE EXPLAIN WHY SBC ILLINOIS' LOGIC IS FLAWED.

A. If the Commission finds voice FX traffic is not subject to Section 251(b)(5)'s reciprocal compensation requirement, then such traffic is simply not relevant to the "mirroring" rule. The "mirroring" rule explicitly requires that "incumbent LECs pay the same rates for ISP-bound traffic that they receive <u>for section 251(b)(5) traffic.</u>" Thus, if the traffic is not 251(b)(5) traffic, it is not relevant to the "mirroring" rule. SBC Illinois cannot avoid its obligation to pay the same reciprocal compensation for

ISP-bound traffic that it receives for Section 251(b)(5) traffic by pointing to the "bill and keep" treatment for non Section 251(b)(5) traffic.

141. Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE IC 2(d)?

A. The Commission should adopt ATTCI's language for Section 21.2.7, including ATTCI's definition of local calls, and should reject SBC Illinois' competing language in Section 21.2.7 and SBC Illinois' proposed language in Section 21.2.8. The Commission should find that Voice FX/FX-like arrangements are not subject to the Section 251(g) carve out and therefore the reciprocal compensation requirements of Section 251(b)(5) apply.

However, if, instead, the Commission decides to rely on the local/non-local distinction to determine if reciprocal compensation applies to voice FX-like traffic, the Commission should (1) order the parties to use the NPA-NXX codes of the originating and terminating telephone numbers to make such local/non-local determination, and (2) find that reciprocal compensation applies to calls when the originating and terminating NPA-NXXs are in the same originating carrier's tariffed local calling area, even if that calling area spans two different incumbent telephone company operating areas, e.g., Verizon's and SBC Illinois'. Under this scenario, the Commission should find that while an end-to-end analysis has been used by the FCC and state commissions to *establish interstate versus intrastate*

jurisdiction, NPA-NXX codes have been and continue to be used to rate and bill calls, and there is no public policy reason to change that arrangement now, particularly for one subset of traffic.[93]

Issue IC 2(d): If the ICC adopts SBC's proposal for FX-like traffic, under Issue 2, are specific recording processes warranted for FX traffic? (Article 21, Section 21.7.1 and 21.7.3 and subsections)

142. Q. WHAT WOULD SBC ILLINOIS' PROPOSED LANGUAGE FOR SECTION 21.7 REQUIRE ATTCI AND SBC ILLINOIS TO DO?

A. The terminating carrier would have to segregate and separately track FX (SBC Illinois) and FX-like (ATTCI) traffic and retain written records of all FX/FX-like ten-digit FX/FX-like telephone numbers for which "bill and keep" applies for two years from the date the FX/FX-like telephone numbers were assigned. SBC Illinois' language would require the parties to exchange monthly NXX level summaries of the minutes of use to FX/FX-like telephone numbers on its network.

143. Q. IN LIGHT OF THESE IMPACTS, IS SBC ILLINOIS' PROPOSED LANGUAGE REASONABLE?

A. No. While SBC Illinois may be able to identify its FX customers through the Universal Service Order Code ("USOC") it assigns to such service and track terminating minutes of use to such numbers, ATTCI cannot. As we explained earlier in our testimony, ATTCI's FX-like

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[93] It should also be noted that given the pendency of the FCC's Intercarrier Compensation NPRM, any change in how traffic is rated is likely to be short-lived given the comprehensive changes being examined by the FCC in that Docket that could completely supersede a state-imposed rating system, including such a system imposed in this case at SBC's behest.

arrangement is not a service but a non-chargeable service provisioning option. Consequently, ATTCI has no reason to, and does not, separately identify FX-like customers or the traffic directed to FX-like customers within its systems and processes and cannot do so without incurring significant expense. ATTCI should not be required to incur the significant expense that would be required to identify such customers and to segregate their usage. Moreover, there are substantive reasons why the Commission should not order such burdensome tracking and the monthly exchange of usage data between the Parties.

144. Q. WHY SHOULD THE COMMISSION NOT ORDER THE PARTIES TO SEGREGATE AND TRACK FX AND FX-LIKE USAGE?

A. First, with respect to ISP-bound FX traffic, as we described in greater detail under Issue IC-2(b), such traffic is not subject to state jurisdiction. This Commission therefore cannot order special tracking for this traffic. Moreover, under current FCC rules, such traffic is compensated in the exact same manner as Section 251(b)(5) traffic; therefore, special tracking would serve no useful purpose. If SBC Illinois elects to opt into the rate caps in the FCC *ISP Remand Order*, then ISP-bound FX traffic would be identified and compensated in accordance with the *ISP Remand Order*. In its *ISP Remand Order*, the FCC adopted a rebuttable presumption that traffic exchanged between LECs that exceeds a 3:1 ratio of terminating to originating traffic is ISP-

bound traffic and is subject to the compensation mechanism the FCC established in the *ISP Remand Order*.[94] The FCC specifically said it was establishing this rebuttable presumption "[i]n order to limit disputes and costly measures to identify ISP-bound traffic."[95] Thus, special tracking for ISP-bound traffic would also serve no useful purpose if SBC Illinois opted into the rates and rate caps in the *ISP Remand Order.*

Second, with respect to voice FX traffic, ATTCI proposes that such traffic be compensated in the same manner as all other section 251(b)(5) traffic (Issue IC 2(c)); therefore, special tracking would serve no useful purpose. If the Commission does not agree with ATTCI under Issue IC 2(c), then the Commission should nevertheless refrain from ordering a costly and burdensome tracking mechanism for what ATTCI believes to be a very small volume of traffic. The costs to develop and track such a small volume of traffic would be many times greater than any compensation that SBC Illinois would receive. Notwithstanding this cost-benefit equation, if the Commission believes that separate tracking should be implemented for voice FX traffic, then SBC Illinois should be required to compensate ATTCI for the costs to

[94] *ISP Remand Order* at ¶ 8.
[95] *Id*. at ¶ 8.

develop and administer such tracking, as SBC Illinois would be the sole beneficiary of such tracking.

145. Q. WHAT WOULD BE THE IMPACT ON ATTCI IF THE COMMISSION NEVERTHELESS DECIDED TO ADOPT SBC ILLINOIS' DEFINITION FOR LOCAL CALLS, AND RULED THAT NON-ISP-BOUND FX/FX-LIKE TRAFFIC IS SUBJECT TO "BILL AND KEEP"?

A. Such a decision would have a significant impact on ATTCI's support systems and processes would be very expensive to implement. As we stated above, ATTCI does not identify or maintain a separate record of FX-like customers and numbers, and does not segregate FX-like traffic or track it separately. ATTCI would have to modify its End User Ordering System, Access Message Processing System ("AMPS") and related support processes and systems to enable it to identify its FX-like customers and suppress reciprocal compensation billing for non-ISP-bound FX-like calls determined to be "non-local" based on the FX-like customer's physical location. The reciprocal compensation charge would be applied only if the originating telephone number and the geographic location of ATTCI's FX-like customer are in the same tariffed local calling area. Otherwise, reciprocal compensation would not be billed.

146. Q. PLEASE EXPLAIN THE CHANGES ATTCI WOULD HAVE TO MAKE IN ITS END-USER ORDERING AND CARRIER ACCESS BILLING SYSTEMS.

A. As we stated above, ATTCI does not identify or maintain a separate record of FX-like customers and numbers, and does not segregate FX-like traffic or track it separately. First, ATTCI would have to identify its embedded base of FX-like customers and their telephone numbers by comparing the rate center associated with each customer's physical service address to the rate center associated with the customer's telephone number(s). If the rate centers are not the same or are not in the same Commission-defined local calling area, the telephone number would be designated as FX-like. The customer's address and telephone number would have to be obtained from the End User Ordering System, and ATTCI would have to "dip" multiple databases, including the LERG (NPA-NXX to Rate Center relationship) and CRANE (Rate Center(s) to local calling area relationship), to make this determination. Then, ATTCI would have to determine which FX-like arrangements are used for ISP-bound versus non-ISP-bound traffic. Going forward, this information would have to obtained and entered into the End User Ordering System by the service representative as part of the service order process.

ATTCI's End User Ordering System would need to be enhanced to identify separately ISP-bound and non-ISP-bound FX-like customers and to house the customer information needed by downstream systems to properly apply or not apply reciprocal compensation. For

example, the data would need to include both the customer's assigned telephone number(s) and a translation telephone number associated with the Rate Center serving the customer's physical location. ATTCI would need to create a table of FX-like telephone numbers and related information and update such table daily for uploading to AMPS via the common reference tables maintained by CRANE.

Second, ATTCI would have to modify its AMPS billing systems to accept this table and process usage appropriately. AMPS would then need to be further modified so that every terminating message recorded by ATTCI is run against a table of non-ISP-bound FX-like numbers to determine if the telephone number is an FX-like number that may not be subject to reciprocal compensation. If it is, then AMPS would have to determine if the call is local or non-local based on the originating telephone number and the translation telephone number associated with the customer's physical location. If the call were local, the record would be passed to CABS for reciprocal compensation billing. If the call were not local, the record would be dropped into a separate file and would not passed to CABS for billing. It should be noted that *every* call record passing through the system would have to go through this discernment step.

147. Q. WHAT IS ATTCI'S ESTIMATE OF THE DEVELOPMENT AND RECURRING MONTHLY COST TO IMPLEMENT THESE CHANGES?

A. The changes in the End User Ordering System are estimated to have a one-time systems development cost of $500,000 and the changes for the AMPS and CRANE systems are estimated to have a one-time development cost of $3 million to $4 million. In addition, ATTCI estimates that it would have a recurring monthly cost of $325,000, broken down as follows:

Main Frame Processing	$56,000
Servers	$10,000
Maintenance for Servers	$23,000
Software Licensing	$20,000
IBM Support	$100,000
IBM Development	$16,000
Data Feeds	$100,000
Total	$325,000

148. Q. IF THE COMMISSION NEVERTHELESS DECIDES TO ADOPT SBC ILLINOIS' LOCAL CALL AND/OR FX DEFINITIONS AND DETERMINES THAT NON-ISP-BOUND FX/FX-LIKE TRAFFIC IS SUBJECT TO BILL AND KEEP, HOW SHOULD SUCH TRAFFIC BE IDENTIFIED?

A. As we noted earlier, given the pendency of the FCC's *Intercarrier Compensation NPRM*, any change in how traffic is rated is likely to be short-lived given the comprehensive changes being examined by the FCC in that Docket that could completely supersede a state imposed rating system. Thus, any such change, if required, could be a short term change in industry practice that could become obsolete once the FCC rules on a new intercarrier compensation regime. Given this possibility, and the significant costs that adoption of SBC's proposal would entail, the Commission should allow the parties to use a

Percentage of Voice FX Usage Factor (PVFX) to identify non-ISP bound FX/FX-like traffic. Today, SBC Illinois and ATTCI use similar factors such as PIU (Percent Interstate Usage) and PLU (Percent Local Usage) in their billing processes, and are familiar with the development and usage of such factors.

149. Q. HAS SBC ILLINOIS SUGGESTED THE USE OF A PFX FACTOR?

A. Yes. SBC Illinois' proposed language in Section 21.7.3 states "[a]lternatively, the Parties may mutually agree to assign a Percentage of FX Usage (PFX) which shall represent the estimated percentage of minutes of use that is attributable to all FX traffic in a given month."

150. Q. SHOULD THE DECISION TO USE A PVFX FACTOR ONLY BE BASED ON MUTUAL AGREEMENT?

A. No. As we explained above, other than incurring significant one-time systems development costs and significant monthly recurring costs, ATTCI has no practical alternative to use of a PVFX Factor to identify its monthly non-ISP-bound FX-like terminating traffic. SBC Illinois should not be able to hold ATTCI hostage by not agreeing to the use of a PVFX factor to identify such traffic, thereby forcing ATTCI to implement a costly and burdensome tracking mechanism for what ATTCI believes to be a very small volume of traffic.

151. Q. DOES ATTCI AGREE WITH SBC ILLINOIS' DEFINITION OF THE PVFX FACTOR?

A. No. As we explained above, ISP-bound traffic is subject to the FCC's *ISP Remand Order*. Under current FCC rules, such traffic is compensated in exactly the same manner as Section 251(b)(5) traffic, therefore, a factor would serve no useful purpose. If SBC Illinois elects to opt into the FCC *ISP Remand Order*, then ISP-bound FX traffic would be identified and compensated in accordance with the *ISP Remand Order*. Again, as we explained earlier, development of a factor applicable to such traffic is not necessary. Thus, the only traffic that the PVFX Factor needs to identify is non-ISP-bound (voice) FX or non-ISP-bound (voice) FX-like traffic, and such a PVFX Factor would be used to identify the estimated percentage of minutes of use attributable to non-ISP-bound FX and FX-like traffic in a given month.

152. Q. SINCE ATTCI DOES NOT IDENTIFY OR MAINTAIN SEPARATE RECORDS OF ITS FX-LIKE CUSTOMERS AND TELEPHONE NUMBERS, AND FX-LIKE TRAFFIC IS NOT SEGREGATED OR TRACKED SEPARATELY BY ATTCI, HOW COULD ATTCI DEVELOP A PVFX FACTOR?

A. AT&T Exhibit 2.6 provides a Factor development methodology that ATTCI can use to develop a PVFX Factor. Since SBC Illinois is proposing segregating and tracking for all FX traffic, ATTCI does not expect that SBC Illinois would have a problem either (1) identifying its actual non-ISP-bound FX terminating minutes of use, or (2) developing a PVFX factor for its non-ISP-bound (voice) FX terminating minutes of use. Either arrangement would be acceptable to ATTCI.

153. Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE IC 2(d)?

A. If the Commission decides to adopt SBC Illinois' local call and/or FX definitions, and determines that non-ISP-bound (voice) FX and FX-like traffic is subject to "bill and keep", then the Commission should direct each party, at its option, to select one of the following methods for identifying its terminating non-ISP-bound (voice) FX or FX-like traffic:

(1) Identify the actual monthly non-ISP-bound (voice) FX or FX-like minutes of use based on AMA call records; or

(2) Develop a PVFX Factor based on traffic studies, retail sales of FX lines, or any other reasonable method of estimating the non-ISP-bound FX or FX-like traffic; or

(3) Develop a PVFX Factor using the methodology set forth in AT&T Exhibit 2.6.

154. Q. IS THERE ANYTHING ELSE THE COMMISSION SHOULD DO?

A. Yes. Consistent with the above actions, the Commission should replace SBC Illinois' proposed language in Sections 21.7.3 and 21.7.3.1. with the following language:

> 21.7.3 Each Party, at its option, may select one of the following methods for identifying its terminating non-ISP-bound (voice) FX or FX-like traffic:
>
> (1) Identify the actual monthly non-ISP-bound FX or FX-like minutes of use based on AMA call records; or

(2) Develop a PVFX Factor based on traffic studies, retail sales of FX lines, or any other reasonable method of estimating the non-ISP-bound FX or FX-like traffic; or

(3) Develop a PVFX Factor using the methodology set forth in AT&T Exhibit 2.6 in ICC Docket No. 03-0329.

21.7.3.1 If a PVFX Factor is used, such Factor shall be updated annually.

Issue IC 2(e): If the ICC adopts SBC's proposal for FX-like traffic, under Issue 2, should there be specific audit provisions in Article 21 for the tracking and exclusion of Foreign Exchange traffic? (Article 21, Section 21.7.2 and subsections)

155. Q. SHOULD THE COMMISSION ADOPT SBC ILLINOIS' PROPOSED AUDIT PROVISIONS FOR FX-LIKE TRAFFIC?

A. No. If ATTCI is unable to identify FX-like traffic, SBC Illinois should not have free reign to go through ATTCI's records to attempt to do the same. Also, under current FCC rules, since SBC Illinois has not offered to exchange all traffic at the rate caps established by the FCC in its *ISP Remand Order*, such traffic is compensated in the exact same manner as Section 251(b)(5) traffic, therefore a separate audit of ATTCI's FX-like traffic would serve no useful purpose. If SBC Illinois elects to opt into the FCC *ISP Remand Order*, then ISP-bound FX traffic would be identified and compensated in accordance with the *ISP Remand Order* and again an audit of all of ATTCI's FX-like traffic would serve no useful purpose. Finally, ATTCI believes the audit provisions in Article 1, General Terms and Conditions, Section 32, provide the parties with adequate audit rights and remedies, and that

separate, audit provisions for non-ISP-bound FX-like traffic are simply not necessary.

156. Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE IC 2(e)?

A. The Commission should reject SBC Illinois' proposed FX audit language in Sections 21.7.2, 21.7.2.1 and 21.7.2.2 of the ICA.

Issue IC 3: AT&T Issue: Should ISP-bound traffic be compensated in the same manner as Local Calls? (Article 21, Section 21.2.2)

SBC Issue: Should all ISP calls, including those not locally dialed, be rated and paid reciprocal compensation at local rates?

157. Q. PLEASE DESCRIBE ISSUE IC-3.

A. SBC Illinois and ATTCI do not agree on how ISP-bound traffic should be compensated and billed. SBC Illinois proposes to include language in Section 21.2.2 stating that "ISP-bound traffic will be compensated and billed in the same manner as **similarly dialed voice** calls." SBC Illinois' proposed language is unnecessarily limiting and is not in accordance with the FCC's *ISP Remand Order*. On the other hand, ATTCI's proposed language states "ISP-bound traffic will be compensated and billed in the same manner as **local non-ISP bound** calls." That is, in the same manner as Section 251(b)(5) traffic. ATTCI's language is clear and consistent with the *FCC's ISP Remand Order*.

158. Q. PLEASE EXPLAIN HOW ISP-BOUND TRAFFIC IS TO BE COMPENSATED UNDER THE FCC'S ISP REMAND ORDER.

A. The FCC developed an intercarrier compensation mechanism that provides for two payment options for ISP-bound traffic: (1) An ILEC may offer to exchange both voice traffic subject to Section 251(b)(5), and ISP-bound traffic, at rate caps established for certain periods – *i.e.* $.0015 per minute of use (MOU) from June 13, 2001 to December 13, 2001; $.0010 per MOU from December 14, 2001 to June 13, 2003; and $.0007 per MOU from June 14, 2003 until the Commission issues a further order on intercarrier compensation; or (2) if an ILEC chooses not to offer to exchange both traffic subject to Section 251(b)(5) and ISP-bound traffic under the FCC rate cap mechanism, then the FCC requires that the ILEC and CLEC exchange ISP-bound traffic at the state adopted reciprocal compensation rate.[96] Since SBC Illinois has not offered to exchange traffic at the FCC's rate caps, under the *ISP Remand Order*, SBC Illinois and ATTCI must exchange ISP-bound traffic at the state-adopted reciprocal compensation rate for Section 251(b)(5) traffic. ATTCI's proposed language simply reflects that reality.

159. Q. WHAT ABOUT SBC ILLINOIS' PROPOSAL THAT ISP-BOUND TRAFFIC BE COMPENSATED IN THE SAME MANNER AS "SIMILARLY DIALED VOICE" LOCAL CALLS?

A. SBC Illinois' attempt to include language in the agreement constraining reciprocal compensation for ISP-bound traffic to "similarly dialed voice

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[96] *ISP Remand Order* at ¶ 8.

calls" is yet another of SBC Illinois' multiple approaches to include language in the ICA that will let it challenge, dispute and withhold payments for reciprocal compensation. In Issue IC 2, SBC Illinois is proposing to include language limiting reciprocal compensation payments to what SBC Illinois defines as "Local Calls", which excludes any FX or FX-like traffic, including ISP-bound FX-like traffic. In case this approach fails, SBC Illinois is also proposing to include language in the ICA specifically defining "bill and keep" as the compensation arrangement for FX and FX and FX-like traffic, including ISP-bound traffic. Now, in Issue IC 3, in case the first two approaches fail, SBC Illinois seeks to include language in the ICA limiting reciprocal compensation for ISP-bound traffic to "similarly dialed voice calls." SBC Illinois' proposed language is inappropriate and should be rejected by the Commission.

The FCC's rules do not limit reciprocal compensation for ISP-bound traffic to "similarly dialed voice calls." In the *ISP Remand Order*, the FCC "adopt[ed] a rebuttable presumption that traffic delivered to a carrier, pursuant to a particular contract, that exceeds a 3:1 ratio of terminating to originating traffic is ISP-bound traffic that is subject to the compensation mechanism set forth in this order."[97] SBC Illinois has not offered to exchange both traffic subject to Section 251(b)(5)

and ISP-bound traffic under the FCC's rate cap mechanism, and, therefore, under the *ISP Remand Order*, SBC Illinois and CLECs must exchange ISP-bound traffic, as the FCC defines such traffic, at the state-adopted reciprocal compensation rates applicable to Section 251(b)(5) traffic.

Further, SBC Illinois' proposal is not tailored to Illinois' unique dialing arrangements for local calls. In the northern and northwestern suburbs of Chicago (specifically, in area code "847") mandatory 1+10-digit dialing is used for all local calls dialed within and between area code "847" and all other area codes in Illinois. This means that all calls originating in area code "847" must be dialed using 1+10 digits (1+ the area code + 7-digit telephone number) to complete - even when calling within the same area code. For example, a call made from a number in the 847 area code to another number in the 847 area code must be dialed using 1 + 847 + the 7-digit telephone number. On the other hand, local calls originating in Illinois' other area codes (217, 224, 312, 309, 618, 630, 708, 773 and 815) can be made by only dialing seven digits. Thus, whether a call is dialed as 1+ ten digits or not may not be determinative of whether the call is local or toll.

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97 *Id*. at ¶ 79.

In summary, SBC Illinois' proposed language is inconsistent with the FCC's *ISP Remand Order*, which does not limit reciprocal compensation for ISP-bound traffic to "similarly dialed voice calls," and is apt to lead to confusion that allows SBC Illinois to dispute and litigate reciprocal compensation payments for ISP-bound traffic that it alleges is not dialed as **similarly dialed voice** calls. Finally, SBC Illinois' proposal does not reflect Illinois' varied dialing arrangements for local calls.

160. Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE IC 3?

A. The Commission should adopt the language proposed by ATTCI for Article 21, Section 21.2.2, and reject the language SBC Illinois seeks to add in that Section.

Issue IC 4: AT&T Issue: What classes of traffic should be excluded from reciprocal compensation under this Article? (Article 21, Section 21.2.4)

SBC Issue: Should Information Access traffic and Exchange Services for such access be defined as traffic exempted from reciprocal compensation? (Article 21, Section 21.2.4)

161. Q. PLEASE DESCRIBE ISSUE IC 4.

A. SBC Illinois proposes to add language in Section 21.2.4 exempting from reciprocal compensation (1) Information Access traffic, and (2) any other type of traffic found to be exempt from reciprocal compensation by the FCC or this Commission. SBC Illinois' proposed Information Access exemption is overly broad, and is simply another

attempt by SBC Illinois to include language in the ICA that will allow it to argue that reciprocal compensation is not applicable to ISP-bound traffic or any other subset of Information Access traffic for which SBC Illinois does not want to pay compensation. Further, SBC Illinois' proposed language exempting "any other type of traffic found to be exempt from reciprocal compensation by the FCC or the Commission" would likely lead to disputes, and is unnecessary given the Agreement's change of law provision in Section 1.3 of Article 1, General Terms and Conditions.

To avoid ambiguity or disputes regarding the types of traffic exempt from reciprocal compensation, ATTCI proposes to add language clarifying the types of traffic that are exempted from reciprocal compensation, and specific language clarifying that "ISP-bound traffic …... is not exempted from 251(b)(5) reciprocal compensation." As the FCC expressly stated in its *ISP Remand Order*, *all* traffic is subject to reciprocal compensation unless it falls within the exceptions set forth in Section 251(g) of the Act; and, as we stated earlier, counsel has advised us that the D.C. Circuit Court of Appeals, in ruling on an appeal of the *ISP Remand Order*, held that ISP-bound traffic is not subject to the Section 251(g) carve-out provision. Therefore, since SBC Illinois has not offered to exchange all traffic at the rate caps established by the FCC in its *ISP Remand Order*, ISP-

bound traffic is subject to the reciprocal compensation rates established by this Commission.

162. Q. PLEASE EXPLAIN WHY ATTCI'S LANGUAGE CLARIFYING THE APPLICABILITY OF RECIPROCAL COMPENSATION TO ISP-BOUND TRAFFIC IS NECESSARY.

A. SBC Illinois' proposed language, if adopted, would give SBC Illinois yet another reason to dispute and withhold payment of reciprocal compensation for ISP-bound traffic. Specifically, SBC Illinois could argue that reciprocal compensation is not applicable to ISP-bound traffic under its language because ISP-bound traffic is one class of Information Access traffic. Thus, even if SBC Illinois is unsuccessful in (1) its attempt to limit reciprocal compensation to "local calls", which, as SBC Illinois defines such calls, excludes calls to/from FX and FX-like arrangements, including ISP-bound FX-like traffic, or (2) its attempt to include language in the ICA specifically establishing "bill and keep" as the compensation arrangement for FX and FX and FX-like traffic, including ISP-bound traffic, or (3) its argument that ISP-bound calls should "be compensated and billed in the same manner as "similarly dialed voice calls", SBC Illinois could still avoid payment of reciprocal compensation for ISP-bound traffic if the Commission were to adopt SBC's proposed language in Section 21.2.4 of the ICA exempting SBC Illinois from payment of reciprocal compensation for Information Access traffic. Thus, ATTCI's language clarifying that reciprocal

compensation applies to ISP-bound traffic is needed to avoid this result.

163. Q. IS RECIPROCAL COMPENSATION APPLICABLE TO ISP-BOUND TRAFFIC?

A. Yes, for the reasons we have explained previously in this testimony.

164. Q. WHAT IS ATTCI'S POSITION ON SBC ILLINOIS' PROPOSED LANGUAGE THAT WOULD EXEMPT FROM RECIPROCAL COMPENSATION "ANY OTHER TYPE OF TRAFFIC FOUND TO BE EXEMPT FROM RECIPROCAL COMPENSATION BY THE FCC OR THE COMMISSION."

A. SBC Illinois' proposed language would likely lead to disputes, and is unnecessary given the ICA's change of law provision in Section 1.3 of Article 1, General Terms and Conditions. If SBC Illinois' proposed language were adopted, SBC Illinois would doubtless argue that the Commission's finding in any arbitration or other proceeding that reciprocal compensation was not applicable to a particular service or services applied with equal force to this ICA. In fact, if SBC Illinois' language were adopted, the Commission's *prior* rulings would also be imported into this ICA. While it is likely that SBC would have participated in or will participate in such other proceedings (such as ICA arbitrations with other CLECs), it is highly unlikely that ATTCI has participated in or will participate in any arbitration proceeding other than its own. Therefore, irrespective of how the issues are structured or argued by SBC and the other parties to another case, and despite

any agreements that SBC and the other party may reach to resolve issues in these other proceedings, ATTCI would be bound by the outcome. This is patently unfair to ATTCI. Further, there is no need for such draconian language because the change in law provision in Article 1, Section 1.3, allows either Party recourse in the event of a change in applicable laws.

Thus, the Commission should reject SBC Illinois' proposed language in Section 21.2.4 that would exempt "any other type of traffic found to be exempt from reciprocal compensation by the FCC or the Commission" from reciprocal compensation under this ICA.

165. Q. PLEASE COMMENT ON SBC ILLINOIS' POSITION THAT THE FCC'S "MIRRORING" RULE REQUIRES BOTH VOICE AND ISP-BOUND FOREIGN EXCHANGE (FX) TRAFFIC TO BE COMPENSATED IN THE SAME MANNER AND THUS FX VOICE AND FX ISP TRAFFIC ARE SUBJECT TO BILL AND KEEP.

A. As we stated earlier, SBC Illinois' position is based on faulty reasoning and is incorrect. As support for its position, SBC Illinois points to ¶ 89 of the FCC's *ISP Remand Order*, which states:

> For those incumbent LECs that choose *not* to offer to exchange section 251(b)(5) traffic subject to the same rate caps we adopt for ISP-bound traffic, we order them to exchange ISP-bound traffic at the state-approved or state-arbitrated reciprocal compensation rates reflected in their contracts. This "mirroring" rule insures that incumbent LECs will pay the same rates for ISP-bound traffic that they receive for section 251(b)(5) traffic. (emphasis in original)

Apparently, SBC Illinois believes that if the Commission (1) finds that non-ISP-bound (voice) FX traffic is an exchange service but is not subject to the *Act's* Section 251(b)(5) reciprocal compensation requirement, and (2) adopts a bill and keep regime for such voice FX traffic, then the FCC's "mirroring" rule compels the same bill and keep regime for ISP-bound FX traffic which is subject to the FCC's jurisdiction. SBC Illinois is wrong. As we have previously explained, if the Commission finds voice FX traffic is not subject to Section 251(b)(5)'s reciprocal compensation requirement, then such traffic is simply not relevant to the "mirroring" rule. The "mirroring" rule explicitly requires that "incumbent LECs pay the same rates for ISP-bound traffic that they receive for section 251(b)(5) traffic." Thus, if the traffic is not 251(b)(5) traffic, it is not relevant to the "mirroring" rule. SBC Illinois cannot avoid its obligation to pay the same reciprocal compensation for ISP-bound traffic that it receives for Section 251(b)(5) traffic by pointing to the "bill and keep" treatment for non Section 251(b)(5) traffic.

166. Q. PLEASE COMMENT ON SBC ILLINOIS' ASSERTION "AT&T IS ATTEMPTING TO HAVE ALL ISP-BOUND TRAFFIC TREATED AS LOCAL EVEN IF SUCH TRAFFIC IS INTRALATA/INTERLATA TOLL."

A. As we explained in our testimony on Issue IC 2, under the FCC's *ISP Remand Order*, *all* traffic is subject to reciprocal compensation unless the traffic falls within the exemptions established in Section 251(g) of the Act. However, as a practical matter, the characterization of traffic

for rating purposes is based on the originating and terminating telephone numbers. As we explained in our testimony on Issue 2(c), telecommunications billing (whether between a telecommunications provider and its retail customers or between two telecommunications companies) is based on electronically generated and recorded AMA data. AMA records are automatically generated by telecommunications switches and include the information necessary to allow the originating and terminating carriers to generate bills, i.e., originating and terminating telephone numbers, switch identification and the length of the call. Interconnection billings for reciprocal compensation, access charges and end-users are based on these AMA records. Switches have been designed by their manufacturers to collect this information and the carriers' billing processes and systems have been designed to allow the carriers to automatically and efficiently rate millions of telephone calls each month, and to bill that traffic to retail customers and to other carriers. As we stated earlier, there is no other workable method in existence at this time.

Thus, as a practical matter, the Commission should direct the parties to continue using the methodology that is in place today to rate calls. Specifically, the parties should be directed to use the originating and terminating NPA-NXXs to determine if FX and FX-like calls are toll. If they are, they should be handled and rated as toll calls. If, based on

the originating and terminating NPA-NXXs they are not toll calls, then they should be subject to reciprocal compensation.

167. Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE IC 4?

A. The Commission should adopt ATTCI's proposed language for Section 21.2.4 of the ICA.

ISSUE IC 5. With respect to AT&T, does SBC-Illinois have the right to invoke the terms of the FCC ISP Remand Order at any time? (Article 21, Sections 21.2.7.1 and 21.16.1 through 21.16.3

168. Q. PLEASE DESCRIBE ISSUE IC 5.

A. FCC released the *ISP Remand Order* on April 27, 2001. As we have described, under this Order, ILECs such as SBC Illinois were permitted the right to opt (or not) into the terms of the Order, which would cap the rates for intercarrier compensation that SBC Illinois would pay other carriers for ISP-bound traffic and cap the rates that other carriers would pay SBC Illinois under the reciprocal compensation regime. As of the date of the filing this testimony, SBC Illinois has not elected to opt into *ISP Remand Order*. ATTCI's position is that the *ISP Remand Order* allows SBC Illinois to exercise its right to opt into the order for traffic SBC Illinois exchanges with ATTCI the under existing interconnection agreement (subject to the terms of the change-in-law provision) during the term of that agreement as well as during the negotiation of the successor agreement (the agreement that is the subject of this arbitration), but the *ISP Remand Order* does not provide

SBC Illinois the right to opt into it (with respect to ATTCI) following the execution of the successor agreement. SBC Illinois has taken the position that it has the right to opt into the ISP Remand Order at any time, even following the execution of the successor agreement.

As we have explained earlier, SBC seems to be attempting to delay its decision on whether to opt into the ISP Remand Order while it pursues other strategies that could limit its reciprocal compensation payment obligations while preserving its reciprocal compensation revenues.

169. Q. DID THE ISP REMAND ORDER LIMIT THE TIME FRAME AN ILEC WOULD HAVE TO OPT INTO THE ORDER?

A. Yes. The FCC made it clear that it expected ILECs to make their intent clear during the negotiation of successor interconnection agreements. In the *ISP Remand Order* the FCC said

> The interim compensation regime we establish here applies as carriers re-negotiate expired or expiring interconnection agreements. (ISP Remand Order, ¶ 82)

170. Q. HOW DO YOU RESPOND TO SBC'S POINT THAT THE RATE CAPS CHANGE OVER TIME AND THAT MAY AFFECT WHEN AN ILEC CHOOSES TO OPT INTO THE RATE CAPS?

A. The rate caps are a known fact; the only unknown is how this Commission will rule on the issues in this arbitration. In fact, the final rate step ($0.0007) of the three-year rate transition that SBC Illinois refers to in its position statement for this issue goes into effect on June

14, 2003, and remains in effect until the FCC issues a further order on intercarrier compensation. All other material factors are known today, including the cap on total ISP-bound minutes for which a local exchange carrier may receive this compensation. SBC Illinois has the ability to factor the rate cap into its business plan and make its choice based on those facts. ATTCI would, however, agree that SBC Illinois could make its election today, and the election could be effective on a later date, if SBC so chooses.

171. Q. HOW DO YOU RESPOND TO SBC'S CONCERN THAT THE TERMS OF PRE-EXISTING AGREEMENTS MAY NOT HAVE ALLOWED IT TO TAKE ADVANTAGE OF THE RATE CAPS?

A. ATTCI's agreement has expired and we would expect that many, if not most, of SBC's pre-existing agreements have either expired since the FCC issued its *ISP Remand Order* on April 27, 2001, or are close to expiring. Thus, SBC's point concerning the possible change of law provisions in its previous agreements is largely without merit. ATTCI and SBC Illinois are negotiating a successor agreement now and the change-of-law provision in the prior agreement has no affect. Yet, here we are before the Commission and SBC Illinois has still not made its election.

172. Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE IC-5?

A. The Commission should reject SBC's proposed language in Article 21, Sections 21.2.7.1, 21.16, 21.16.1, 21.16.2 and 21.16.3, and should

adopt ATTCI's proposed language for Section 21.16.1. The Commission should make it clear that until such time as SBC Illinois opts into the intercarrier compensation mechanism in the FCC's *ISP Remand Order*, ISP-bound traffic and traffic subject to Section 251(b)(5) of the Act will be compensated at the reciprocal compensation rates approved by this Commission.

Issue IC 6: AT&T Issue: Should reciprocal compensation apply to telecommunications traffic irrespective of the switch and/or loop technology utilized by the carriers? (Article 21, Section 21.2.10)

SBC Issue: Should SBC-Illinois be required to pay reciprocal compensation for traffic that does not terminate on a switch? (Article 21, Section 21.2.10)

173. Q. PLEASE DESCRIBE ISSUE IC 6.

A. This issue concerns the emerging technologies that may be used to provide telecommunications exchange services and whether traffic originating from or terminating to such services are subject to reciprocal compensation. ATTCI takes the position, consistent with Illinois policy, that the telecommunications service -- and not the underlying technology and facilities -- determines the classification of a service and the inter-carrier compensation that would be due for such traffic exchanged between carriers. ATTCI also takes the position that, consistent with FCC rules, all telecommunications traffic not "carved out" by §251(g) of the Act is subject to reciprocal compensation. Because the Act only carves out certain classifications of telecommunications services (i.e. exchange access and information

access), and does not exclude telecommunications services based on the technology used to provide such services, it would be inappropriate and unfair to exclude a service from reciprocal compensation based on the technology used to provide the service. SBC Illinois, on the other hand, has taken the position that traffic that is delivered to ATTCI or an ISP via Digital Subscriber Line ("DSL") service is not subject to intercarrier compensation. SBC Illinois' proposal is based on its contention that such traffic is not delivered to, and is not terminated through, the other Party's "terminating switch."

174. Q. IS IT TECHNICALLY FEASIBLE TO OFFER EXCHANGE SERVICE USING DSL?

A. Yes. Using a specially designed DSL modem, it is technically feasible to offer voice grade exchange service over the high frequency spectrum portion of the customer loop. In fact, the currently available DSL modems are able to derive two voice lines in addition to providing the data DSL service. ATTCI does not have knowledge of SBC Illinois' business plans, but certainly it would be technically feasible for SBC Illinois to offer local exchange services using DSL technology.

175. Q. IF SBC ILLINOIS WERE TO OFFER LOCAL EXCHANGE SERVICES USING DSL TECHNOLOGY, HOW DOES SBC ILLINOIS PROPOSE TO COMPENSATE ATTCI FOR COMPLETING TRAFFIC THAT ORIGINATES ON SUCH SERVICES?

A. SBC Illinois' proposed contract terms would require that ATTCI transport and terminate such traffic and receive no compensation from

SBC Illinois as ATTCI would if that traffic originated on circuit switched subscriber lines. Thus, for example, if SBC Illinois migrated an existing customer to this technology, ATTCI would be forced to terminate such calls for free, even though ATTCI would be performing exactly the same functions as it does today. This is another effort by SBC Illinois to avoid paying ATTCI reciprocal compensation for calls, and to limit or escape its existing obligations to pay reciprocal compensation.

176. Q. DOES ATTCI OFFER EXCHANGE SERVICES USING DSL OR PACKET SWITCHING TECHNOLOGY?

A. No, and to our knowledge, ATTCI currently does not have plans to do so.

177. Q. IS TRAFFIC ORIGINATING FROM OR TERMINATING TO A DERIVED VOICE DSL SERVICE TELECOMMUNICATIONS TRAFFIC?

A. Yes. The Act defines "Telecommunications" as follows,

> The term 'telecommunications' means the transmission, between or among points specified by the user, of information of user's choosing, without change in the form or content of the information as sent and received.[98]

178. Q. IS SBC ILLINOIS CLAIMING THAT TRAFFIC DERIVED FROM A DSL LINE IS "CARVED OUT" BY SECTION 251(G) OF THE ACT?

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[98] 47 U.S.C. 151 § 3(a)(48)

A. No. It is ATTCI's position, therefore, that pursuant to 47 C.F.R. 51-701, reciprocal compensation must apply, irrespective of the technology used to provide the service and transport such traffic.

179. Q. UNDER THE POLICY IN PLACE IN ILLINOIS, DOES THE TECHNOLOGY USED TO PROVIDE A SERVICE ALTER THE INTERCARRIER COMPENSATION FOR SUCH SERVICE?

A. No. Illinois regulates telecommunications services by service, not by technology,[99] and therefore, the intercarrier compensation arrangements between landline carriers do not vary based on the technology used to provide the service.

180. Q. HOW DO YOU RESPOND TO SBC ILLINOIS' ASSERTION THAT DSL TRAFFIC "BY-PASSES THE OTHER PARTY'S TERMINATING SWITCH"?

A. SBC Illinois' claim that DSL traffic "by-passes the other party's terminating switch" is simply incorrect. ATTCI – and to our knowledge, SBC Illinois – originate and terminate exchange services with a switch. Currently, telecommunications technologies fall into two main groups: circuit-switched and packet-switched. Circuit switching requires a full voice channel between the calling and called parties for the duration of the call, whereas packet switching divides the voice signal into digital packets that are transmitted individually. The preponderance of exchange services today are provided using circuit-switched

[99] There are very limited exceptions, e.g., cellular service.

technology. However, carriers are beginning to deploy packet-switching systems in their networks and offer packet-switched services.[100] Packet-switched traffic such as DSL derived-voice traffic would require the use of a packet switch to terminate such traffic as opposed to a circuit switch. In its position statement, SBC Illinois appears to be saying that only traffic that originates from and terminates to "traditional" circuit-switched subscriber lines would be entitled to reciprocal compensation. However, this position is inconsistent with FCC's Rules and Orders on reciprocal compensation.

181. Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE IC-6?

A. SBC Illinois is attempting to escape its existing obligation to pay reciprocal compensation on telecommunications service traffic. The Commission should reject SBC Illinois' additional proposed language for Article 21, Section 21.2.10.

[100] In a press release dated May 28, 2002, SBC "announced a range of new Centrex capabilities that will enable businesses to take advantage of Internet Protocol (IP) telephony, Digital Subscriber Line (DSL) and Web-enabled services provided out of SBC's central offices…. SBC Centrex IP uses voice over packet transport, enabling customers to integrate their own voice and data networks over a single local area network to support all of their business communications needs. SBC Centrex IP scales easily and is a cost-effective option for any business that wants to migrate to IP telephony technology and a unified network through scalable deployments…. SBC Centrex IP will be available to customers beginning in September, with initial rollouts in Chicago, Hartford, Houston, Los Angeles and Sacramento."

Issue IC 7: If the originating Party passes CPN on less than 90% of its originating calls, should those calls passed without CPN be billed as intraLATA switched access or based on a percentage local usage factor (PLU)? (Article 21, Section 21.3.4)

182. Q. PLEASE DESCRIBE ISSUE IC 7.

A. ATTCI and SBC Illinois disagree on how to determine the jurisdiction of traffic sent without calling party number ("CPN") information. ATTCI and SBC Illinois use this information to ascertain whether calls are subject to access charges or reciprocal compensation. Generally speaking, the parties agree on how the calls will be jurisdictionalized if the percentage of calls passed with CPN is 90% or greater, but disagree on what happens if the percentage of calls passed with CPN drops below 90%. As long as the percentage of calls passed with CPN is 90% or greater, calls passed without CPN will be billed as either local or intraLATA toll in direct proportion to the percent local usage ("PLU") factor determined in accordance with Section 21.15.1. However, if the percentage of calls passed with CPN drops below 90%, SBC Illinois proposes that the terminating party provide written notice to the originating party that the percentage has fallen below 90%. The noticed party will then have the succeeding month to correct the issue. Under SBC's proposal, if the percentage of calls in the third month is still below 90%, all calls passed without CPN will be billed at intraLATA access charges. On the other hand, ATTCI proposes that if the percentage of calls passed without CPN drops below 90%, the

terminating party will so inform the originating party and the parties will coordinate and exchange data as necessary to determine the cause of the failure and to assist in its correction. However, under ATTCI's proposed language, calls passed without CPN would continue to be billed as either local or intraLATA toll in direct proportion the percent local usage ("PLU") factor, whereas under SBC Illinois' proposed language, all such calls would be billed at access charges.

183. Q. DOES ATTCI PROVIDE CPN ON ALL CALLS?

A. ATTCI agrees that CPN should be passed wherever possible. All ATTCI switches provide CPN on all calls where ATTCI has control over provision of CPN. ATTCI's business operations and processes rely on this information just as much as SBC Illinois' do. However, ATTCI (and SBC Illinois) should not be punished for circumstances beyond their control.

184. Q. PLEASE EXPLAIN WHAT YOU MEAN BY CIRCUMSTANCES BEYOND A PARTY'S CONTROL.

A. ATTCI and SBC Illinois have no control over the lack of CPN when business customers use older customer premise equipment ("CPE") that prevents CPN passage. For example, older multi-line business CPE is unable to record CPN mechanically. Therefore, a new entrant such as ATTCI that has a disproportionate share of business customers may be disproportionately affected by lack of CPN

information through no fault of its own. Therefore, ATTCI's proposed language states that the parties will coordinate and exchange data as necessary to determine the cause of the CPN failure (or shortfall) and to assist in its correction, but it does not require the originating carrier to pay access charges on all of the calls passed without CPN, which SBC Illinois' language would require. ATTCI believes that in the absence of CPN information, the jurisdiction of the traffic should have a basis in fact, i.e., the PLU factor, rather than an arbitrary designation of all such calls as toll traffic which is subject to access charges.

185. Q. WHAT SUPPORT HAS SBC ILLINOIS GIVEN FOR ITS LANGUAGE ON THIS ISSUE?

A. SBC Illinois claims that this provision will protect it against some unscrupulous CLEC overriding CPN so they can slip toll traffic in as local traffic and pay the lower reciprocal compensation rate instead of the applicable higher access charges. As we stated above, ATTCI agrees that CPN should be passed wherever possible. All ATTCI switches provide CPN on all calls where ATTCI has control over provision of CPN, and ATTCI's business operations and processes rely on this information just as much as SBC Illinois' do. ATTCI should not be penalized for the actions that SBC Illinois fears some other CLEC might take.

186. Q. HAS THIS ISSUE BEEN ADDRESSED BY THE FCC?

A. Yes. This issue was one of WorldCom's issues addressed by the FCC in the Virginia Arbitration Proceeding.[101] In that proceeding, as in this proceeding, Verizon and WorldCom agreed that they would exchange CPN data for at least 90% of the calls but disagreed on what should happen when a party passes CPN information on less than 90% of its originating calls. Verizon proposed to charge access charges for all traffic below the 90% CPN threshold, which is less onerous than SBC Illinois' proposal in this case, which is to charge access charges for all calls without CPN. On the other hand, WorldCom proposed that the parties use the PLU factors to jurisdictionalize the traffic below 90%. The FCC adopted WorldCom's proposal. The FCC said it adopted WorldCom's proposal

> because it offers a reasonable solution to address those situations in which the parties are unable to pass CPN on 90% of their exchanged traffic. Other than indicating concern about unnamed competitive LECs 'stripping off' CPN to receive reciprocal compensation for a call subject to access charges, Verizon offers no real criticism of WorldCom's proposal. However sympathetic we may be to Verizon's concerns, we note that less drastic measures are available to it (i.e., filing a complaint with the Virginia Commission.) We decline to burden WorldCom merely because of the potential for unlawful behavior by other competitive LECs.[102]

187. Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE IC-7?

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[101] *Virginia Arbitration Proceeding*, Issue IV-11, Usage Measurement, ¶¶ 186-191.

[102] *Virginia Arbitration Proceeding* at ¶190.

A. The Commission should adopt ATTCI's proposed language for Section 21.3.4.

ISSUE 8(b): AT&T Issue: Do AT&T's switches meet the requirements of 47 C.F.R. 51-711(a)(3), such that SBC Illinois-Illinois shall compensate AT&T for termination at the tandem rate? (Article 21, Section 21.4.5)

SBC Issue: Should AT&T be entitled to a single rate element which includes tandem rate element, even though the tandem may not be used? (Article 21, Section 21.4.5)

188. Q. PLEASE DESCRIBE ISSUE IC 8(b).

A. This issue will determine the rate at which SBC Illinois will compensate ATTCI for traffic that ATTCI terminates on behalf of SBC Illinois. ATTCI's position is that ATTCI is justified in charging the tandem switching rate specified in ATTCI's proposed language for Section 21.4.5, or the tandem serving and end office switching rate elements specified in SBC Illinois' language in Sections 21.4.3.1, 21.4.3.2 and 21.4.4, because ATTCI's switches serve a geographic area comparable to the area served by SBC Illinois' tandem switches, which is the standard specified in 47 CFR 51.711(a)(3). SBC Illinois' position is that "AT&T must demonstrate that it (i) deploys a switch and (ii) deploys plant and has at least 3 end user customers in at least 60% or more of the local calling areas that subtend an SBC tandem" in order to charge SBC Illinois the tandem switch rate for the termination of SBC Illinois' traffic. SBC Illinois' position is not consistent with 47 C.F.R. § 51.711(a)(3) and should be rejected.

189. Q. WHAT DO THE FCC REGULATIONS STATE ON THIS ISSUE?

A. The FCC regulations recognize that there may be parity between a CLEC's end office switch and an ILEC tandem switch. They provide that when the CLEC's switches provide comparable geographical coverage to the ILEC's tandem switches, the tandem rate should apply to the termination of traffic through those CLEC switches. The specific regulation, set forth in, 47 C.F.R. § 51.711 (a)(3), states:

> Where the switch of a carrier other than an incumbent LEC serves a geographic area comparable to the area served by the incumbent LEC's tandem switch, the appropriate rate for the carrier other than an incumbent LEC is the incumbent LEC's tandem interconnection rate.

190. Q. WHAT IS THE FCC'S STATED RATIONALE FOR ADOPTING THE "TANDEM RATE RULE" FOR DETERMINING THE APPROPRIATE RECIPROCAL COMPENSATION RATE?

A. The FCC's tandem rate rule recognizes that while new entrants may adopt network architectures that differ from those of incumbents, the new entrants nonetheless are entitled to be compensated for their costs of terminating traffic.[103] Indeed, in order to achieve the same scale economies as incumbents, CLECs must deploy switches that serve a comparatively broader geographic area, because they lack the concentrated, captive customer base that the incumbents enjoy. If SBC Illinois' interpretation of the FCC rule were adopted, CLECs would be hard pressed to achieve that customer base. SBC Illinois' proposal

would have the effect of penalizing CLECs entering the market, because they would not yet have had sufficient time to build their customer bases to be "comparable" to the size and scope of the ILEC's. Indeed, without earning the higher tandem rate that compensates the CLEC for its costs of termination and for deploying an architecture designed to serve an area comparable to the incumbent's, CLECs would be unable to recoup their costs to terminate SBC Illinois' traffic and would thereby be precluded from entering certain markets altogether. Thus, the underlying point of the FCC's tandem rate rule is to establish a proxy for the interconnecting carrier's costs when it terminates a call from an ILEC to a CLEC customer.

191. Q. IS ATTCI BEING COMPENSATED AT THE TANDEM RATE UNDER THE CURRENT ATTCI-SBC ILLINOIS-INTERCONNECTION AGREEMENT?

A. Yes. SBC Illinois is seeking to reduce the reciprocal compensation it pays ATTCI to terminate its traffic.

192. Q. HAS THE FCC SPECIFICALLY ADDRESSED THIS REGULATION IN ANY OF ITS ORDERS?

A. Yes, several times, and each time the outcome has clearly supported ATTCI's position in this case. First, in the *Local Competition Order*, the FCC stated:

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103 *Local Competition Order* at ¶¶ 1090-1091.

> We find that the "additional costs" incurred by a LEC when transporting and terminating a call that originated on a competing carrier's network are likely to vary depending on whether tandem switching is involved. We, therefore, conclude that states may establish transport and termination rates in the arbitration process that vary according to whether the traffic is routed through a tandem switch or directly to the end-office switch. In such event, states shall also consider whether new technologies (e.g., fiber ring or wireless networks) perform functions similar to those performed by an incumbent LEC's tandem switch and thus, whether some or all calls terminating on the new entrant's network should be priced the same as the sum of transport and termination via the incumbent LEC's tandem switch. *Where the interconnecting carrier's switch serves a geographic area comparable to that served by the incumbent LEC's tandem switch, the appropriate proxy for the interconnecting carrier's additional costs is the LEC tandem interconnection rate*.[104] (emphasis added)

Despite this statement in the Local Competition Order, there still remained some controversy as to whether it was necessary to also examine the functionality of a CLEC switch as well as its geographic coverage when determining whether a CLEC was entitled to the tandem rate. The FCC has laid this controversy to rest in two recent pronouncements. The first is in its *Intercarrier Compensation NPRM*, where the FCC stated,

> In addition, section 51.711(a)(3) of the Commission's rules requires *only that the comparable geographic area test be met before carriers are entitled to the tandem interconnection rate for local call termination*. Although there has been some confusion stemming from additional

[104] Local Competition Order at ¶1090 (emphasis added).

> language in the text of the Local Competition Order regarding functional equivalency, section 51.711(a)(3) is clear in requiring only a geographic area test. *Therefore, we confirm that a carrier demonstrating that its switch serves "a geographic area comparable to that served by the incumbent LEC's tandem switch" is entitled to the tandem interconnection rate to terminate local telecommunications traffic on its network.* ¶ 105. (emphasis added)

The FCC reiterated this clarification in a May 9, 2001 letter relating to a Sprint PCS request on this same issue. In that letter the Commission cited the above quoted statement in the Intercarrier Compensation NPRM and reiterated that the geographic comparability test is the only applicable rule.[105]

193. Q. DID THE FCC INTERPRET ITS RULE IN THE RECENT VIRGINIA ARBITRATION ORDER?

A. Yes. In that proceeding, Verizon argued that AT&T must demonstrate that its switches are <u>actually</u> serving comparable areas before AT&T may receive the tandem rate. This is precisely the same argument SBC Illinois is making in this proceeding (although SBC Illinois goes even further and proposes the specific criteria that ATTCI must meet to demonstrate that its switches are <u>actually</u> serving comparable areas.) In response to Verizon's arguments, the FCC ruled that "[w]e agree with AT&T and WorldCom, … that the requisite comparison under the

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[105] Letter from Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau of the FCC, and Dorothy ZT. Attwood, Chief, Common Carrier Bureau of the FCC, to Charles McKee, Senior Attorney. Sprint PCS (May 9, 2001).

tandem rate rule is whether the competitive LEC's switch is capable of serving a geographic area that is comparable to the architecture served by the incumbent LEC's tandem switch."[106] The FCC stated that Verizon "continues to assert that the competitive LEC switch must actually serve a geographically dispersed customer base in order to qualify for the tandem rate;" but concluded, "we agree, however, with AT&T and WorldCom that the determination whether competitive LEC's switch 'serves' a certain geographical area does not require an examination of the competitor's customer base."[107] Based on the evidence AT&T provided in that proceeding, which the same evidence ATTCI is providing to the Commission in this proceeding, the FCC found that AT&T had met the test specified in 47 C.F.R. § 51.711(a)(3) in Virginia.[108] Thus, the FCC has interpreted its own rule and rejected exactly the same argument SBC Illinois is making here.

194. Q. ARE ATTCI'S SWITCHES IN ILLINOIS CAPABLE OF SERVING A GEOGRAPHIC AREA COMPARABLE TO SBC's TANDEM SWITCHES?

A. Yes, they are. Because ATTCI's switches are capable of serving geographical areas comparable to SBC's tandem switches in Illinois, the Commission should order SBC Illinois to pay the applicable tandem

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[106] *Virginia Arbitration Order* at ¶ 309 (emphasis supplied).
[107] *Id.*
[108] *Id.*

interconnection rate(s) for the termination of local traffic at each ATTCI switch.

AT&T offers local exchange service in Illinois utilizing two separate networks. One network is operated on behalf of ATTCI. The second network is operated on behalf of TCG Illinois and TCG Chicago ("TCG"). ATTCI's and TCG's local service networks provide entirely distinct services and products to distinct classes of customers and are not integrated in any way. For this reason, AT&T proposes that each network may be judged independently for purposes of determining whether such network meets the standard in 47 C.F.R. § 51.711 (A)(3).

ATTCI has deployed 4ESS switches, which function primarily as long distance switches, and 5ESS switches, which act as adjuncts to the 4ESS switches. ATTCI has the ability to connect virtually any qualifying local exchange customer in Illinois to one of these switches through dedicated access services offered by AT&T or another access provider.

TCG provides local exchange services using Class 5 switches. TCG is able to connect virtually any customer in a LATA to the TCG switch serving that LATA either through (1) TCG's own facilities built to the customer's premises, (2) UNE loops provisioned through collocation in SBC Illinois end offices, or (3) dedicated high-capacity

facilities (special access services or combinations of UNEs purchased from SBC Illinois).

195. Q. HAVE YOU PREPARED ANY DOCUMENTATION THAT DEMONSTRATES THAT AT&T'S SWITCHES COVER A GEOGRAPHIC AREA COMPARABLE TO THE AREAS COVERED BY SBC ILLINOIS'S TANDEM SWITCHES?

A. Yes. To assist the Commission in resolving this issue, we have prepared a series of maps that are identified as AT&T Exhibits 2.7 through 2.10.[109] The first map, Exhibit 2.7, provides the number of tandem switches SBC Illinois currently operates and the areas these switches serve in Illinois on a LATA-by-LATA basis. The second map, Exhibit 2.8, shows the number of switches ATTCI currently operates and the areas these switches serve in Illinois on a LATA-by-LATA basis. Currently, ATTCI serves LATAs 358, 360, 368, 370, 374 and 520. While ATTCI does not have a switch in LATAs 360 and 370, it is nevertheless serving LATA 360 through its CHCGILCLDS9 switch located in LATA 358 and LATA 370 through its SPFDILSDDS0 switch located in LATA 374. The third map, Exhibit 2.9, shows the number of switches TCG currently operates and the areas these switches serve in Illinois in LATAs 358, 368 and 634. While TCG does not have a

[109] Statewide and LATA-specific maps were created by using data contained in the Local Exchange Routing Guide ("LERG"). The LERG, produced by Telcordia Technologies, contains routing data that supports the current local exchange network configuration within the North American Numbering Plan (NANP) as well as identifying reported planned changes in the network. The LERG data in conjunction with MapInfo V-4.1.1.2, a commercial mapping software package, was used to prepare the attached statewide and LATA-specific maps.

switch in LATAs 368 and 634, it is nevertheless serving LATA 368 through its CHCGIL24DS0 switch located in LATA 358 and LATA 634 through its CHCGILCLDS7 switch located in LATA 358. Exhibit 2.10 shows the same three maps on a single page for easier comparison. When the three maps are viewed together, it becomes clear that ATTCI and TCG switches cover a comparable or greater geographic area as that covered by the corresponding SBC Illinois tandem switches.

In addition to the maps, AT&T Exhibit 2.11 provides a detailed comparison of the number of Illinois rate centers that are served by the SBC Illinois tandem switches and the ATTCI and TCG switches. Whether one compares the geographic rate center coverage on a LATA-by-LATA or a statewide basis, both the ATTCI and TCG switches serve a comparable and, in some cases, a greater number of rate centers than the SBC Illinois tandem switches. This evidence demonstrates that the ATTCI and TCG networks each meet the requirement of the FCC tandem rate rule, 47 C.F.R. §51-711(a)(3). The Commission should affirm that ATTCI and TCG are entitled to receive the tandem rate for terminating SBC Illinois' traffic.

Issue IC 9: Shall SBC-Illinois be required to make available to AT&T comparable compensation arrangements as those between SBC and other incumbent local exchange carriers and competitive local exchange carriers? (Article 21, Section 21.3.7)

196. Q. PLEASE DESCRIBE ISSUE IC 9.

A. SBC Illinois does not agree with ATTCI's proposed language in Section 21.3.7, which states that "SBC will make available to AT&T a compensation arrangement for serving customers in any optional or mandatory one-way or two-way EAS, including ELCS, area service by an ILEC or CLEC other than AT&T, that is similar to the corresponding arrangement that SBC-Illinois has with that other serving ILEC or CLEC for serving those customers when AT&T is similarly situated to the other ILEC or CLEC."

197. Q. WHAT IS ATTCI'S POSITION ON THIS ISSUE?

A. We have been advised by counsel that CLECs are entitled, as a matter of right, to adopt the reciprocal compensation arrangements used by SBC with other local exchange carriers, including those where the other carrier is an ILEC. Indeed, since ILEC to ILEC interconnection/traffic exchange agreements – including EAS arrangements – are publicly filed documents, ATTCI and other CLECs are certainly allowed to opt into the same arrangements.

ATTCI's language is necessary to prevent undue discrimination. Essentially, SBC Illinois seeks to perpetuate favorable traffic exchange

agreements for EAS areas for one reason: to create a price squeeze. Here is an example that reveals SBC Illinois' anti-competitive motivation and the fairness of ATTCI's position. Assume that SBC Illinois has an EAS arrangement with Verizon North, Inc. between two adjacent exchanges. Typically, under such deals the carriers either employ "bill and keep" for exchanging such calls or a reduced reciprocal compensation rate. Thus, while SBC Illinois customers are charged a lower rate to make these calls, they still are not "loss leaders" since switched access is not being paid. Further assume that the Verizon North, Inc. consumer changes providers and now obtains service from ATTCI. Under SBC Illinois' proposal, ATTCI would not have the right to adopt the SBC Illinois/Verizon traffic exchange agreement. Thus, switched access charges would now be levied for exactly the same calls. This, in turn, would mean the termination cost of these calls would be substantially higher, for no good reason. As this example shows, SBC Illinois' proposal is patently unfair, and should not be adopted.

198. Q. PLEASE COMMENT ON SBC ILLINOIS' POSITION THAT ATTCI'S PROPOSED LANGUAGE IS IN CONFLICT WITH THE FCC'S ISP REMAND ORDER.

A. SBC Illinois' position that the *ISP Remand Order* prohibits CLECs from ever opting into an intercarrier compensation arrangement is incorrect. SBC Illinois misconstrues ¶ 82 of the *ISP Remand Order* as

expansively applying to all interconnection agreements entered into in the past or in the future. In fact, the *ISP Remand Order* only prohibited carriers from opting into particular compensation arrangements - - existing agreements negotiated prior to the FCC's *ISP Remand Order's* intercarrier compensation mechanism. The intercarrier compensation regime established by the FCC in the *ISP Remand Order* applied as carriers re-negotiated expired or expiring interconnection agreements. It did not alter existing contractual obligations, except to the extent that parties are entitled to invoke contractual change-of law provisions.[110] Therefore, the FCC prohibited carriers from opting into these interconnection agreements to prevent carriers from taking advantage of more favorable pricing arrangements that were established prior to the *ISP Remand Order's* pricing mechanism. In other words, because the *ISP Remand Order* would not be effective until 30 days after it was published in the Federal Register, the FCC sought to prevent carriers from using that 30-day window to opt into more favorable interconnection agreements as a way to postpone implementation of the *ISP Remand Order's pricing mechanism.* Footnote 154 of the *ISP Remand Order* shows that the opt-in prohibition is indeed very narrow in its scope and does not support SBC Illinois' position:

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[110] *ISP Remand Order* at ¶ 82.

> This Order will become effective 30 days after publication in the Federal Register, We find there is good cause under 5 U.S.C. § 552(d)(3), however, to prohibit carriers from invoking section 252(i) with respect to rates paid for the exchange of ISP-bound traffic upon publication of this Order in the Federal Register, in order to prevent carriers from exercising opt in rights during the thirty days after Federal Register publication. To permit a carrier to opt into a reciprocal compensation rate higher than the caps we impose here during that window would seriously undermine our effort to curtail regulatory arbitrage and to begin a transition from dependence on intercarrier compensation and toward greater reliance on end-user recovery.

199. Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE IC 9?

A. The Commission should adopt ATTCI's proposed language for Section 21.3.7.

Issue IC 12: Should combined traffic on the Feature Group D trunks be jurisdictionally allocated for compensation purposes? (Article 21, Section 21.15.2)

200. Q. PLEASE DESCRIBE ISSUE IC 12.

A. ATTCI proposes that the ICA include a methodology for jurisdictionalizing traffic on ATTCI's Feature Group D ("FG-D") trunks. Without this methodology, ATTCI is required to have separate trunk groups for interLATA and intraLATA traffic, which is not an efficient or cost-effective arrangement. SBC Illinois opposes the inclusion of this language.

201. Q. PLEASE EXPLAIN HOW FACTORS ARE USED TO JURISDICTIONALIZE TRAFFIC BETWEEN THE PARTIES.

A. Factors, based on statistically valid samples, are routinely used within the telecommunications industry to jurisdictionalize traffic for rate application purposes. In fact, since 1984, the Parties have used a PIU Factor on FG-D trunks to identify interstate and intrastate minutes of use for application of interstate and intrastate access charges. ATTCI proposes to add one more step to that process, the use of a percent local usage ("PLU") Factor to identify local and intraLATA toll minutes of use for application of reciprocal compensation and intrastate access charges.

202. Q. PLEASE EXPLAIN ATTCI'S PROPOSED METHODOLOGY.

A. ATTCI proposes language that would allow the parties to combine intraLATA and InterLATA traffic over IXC FG-D trunks, which is more efficient and cost effective than requiring the two separate trunk groups, one for interLATA traffic and one for intraLATA traffic. The originating party will provide two factors, a PIU and a PLU. The PIU will be calculated by the originating party by dividing identifiable Interstate minutes of use ("MOU") by the total identifiable MOU delivered to the other party for termination on the IXC FG-D trunks. The PLU will be calculated by the originating party by dividing identifiable local MOU by identifiable Intrastate MOU delivered to the other party on the IXC FG-D trunks. Identifiable MOU will be determined based on the originating party's network AMA recordings

for the preceding three-month period. The factor calculation will be subject to the audit provisions contained in Article 1, Section 32.8 of the ICA. The terminating party will (1) apply the PIU to all MOU carried over the IXC FG-D trunks to separate the traffic between interstate and intrastate minutes of use, and (2) apply the PLU to the terminating Intrastate minutes of use carried over the IXC FG-D trunks to separate such traffic between local and intrastate toll MOU.

The factor process proposed by ATTCI is fair, logical and understandable. It is simply an extension of the PLU factor process in Section 21.15.1 of the ICA, which is not in dispute, to include a jurisdictional separation of Interstate and intrastate traffic before further separating the intrastate traffic between local usage and intrastate toll.

203. Q. WHAT IS SBC ILLINOIS'S OBJECTION TO ATTCI'S PROPOSED LANGUAGE?

A. SBC Illinois requires CLECs to use separate trunks for interLATA toll-switched traffic and for intraLATA toll/local traffic and does not allow carriers to combine both types of traffic on a single trunk group, because, according to SBC Illinois, such billing arrangements are not commercially reasonable or cost effective and would require extensive modifications to SBC Illinois' billing systems.

204. Q. PLEASE COMMENT ON SBC ILLINOIS'S OBJECTIONS.

A. First, combining interLATA toll traffic and intraLATA local and toll traffic on the same trunks is commercially reasonable and is more efficient than having separate trunks. SBC Illinois has agreed to this arrangement in other states and Verizon has agreed to it in New York and Virginia, which are the last two interconnection agreements ATTCI has entered into with Verizon. The same arrangement is also used throughout BellSouth and in Arizona, Idaho, Montana, New Mexico and Utah in Qwest. Therefore, the arrangement is clearly commercially reasonable. Further, combining both types of traffic on the same trunks requires fewer trunks for the same grade of service than if the traffic were handled on separate trunks, so it is more efficient and therefore is cost effective.

Second, a CLEC such as ATTCI may interconnect at any technically feasible point within the incumbent's network and is permitted to choose the most efficient interconnection arrangement. Section 251(c)(2) of the Act and FCC orders and rules provide that new entrants may interconnect at any technically feasible point using any technically feasible method. Specifically, CFR 51.305(a)(2) obligates SBC Illinois to allow interconnection by a CLEC at any technically feasible point. In its *Local Competition Order*, the FCC stated:

> The interconnection obligation of section 251(c)(2), discussed in this section, allows *competing carriers to choose the most efficient points at which to exchange traffic with incumbent LECs*, thereby lowering the competing carriers' costs of, among other things, transport and termination of traffic.[111]

Further, CLECs may interconnect using any technically feasible method. In the *Local Competition Order*, the FCC stated:

> We conclude that, under sections 251(c)(2) and 251(c)(3), any requesting carrier may choose any method of technically feasible interconnection or access to unbundled elements at a particular point. *Section 251(c)(2) imposes an interconnection duty at any technically feasible point; it does not limit that duty to a specific method of interconnection* or access to unbundled elements.[112]

Finally, a CLEC such as ATTCI may require an ILEC, such as SBC Illinois, to modify its network to accomplish interconnection. Again, in the Local Competition Order, the FCC stated:

> If incumbent LECs were not required, at least to some extent, to adapt their facilities to interconnection or use by other carriers, the purposes of sections 251(c)(2) and 251(c)(3) would often be frustrated.[113]

In summary, under the Act and the FCC's interconnection rules, ATTCI may interconnect at any technically feasible point using any

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[111] *Local Competition Order* at ¶ 172 (emphasis added).

[112] *Id.* at ¶ 549 (emphasis added).

[113] *Id.* at ¶ 202.

technically feasible method, and SBC Illinois is required to accommodate such interconnection. ATTCI's request to combine interLATA and intraLATA traffic on its IXC FG-D trunks is technically feasible and commercially reasonable as evidenced by the fact that this same arrangement is being used by ATTCI elsewhere in SBC states and in Verizon, BellSouth and Qwest territories, and in those situations, the parties are using the factor methodology described in this testimony and proposed by ATTCI for Article 21, Section 21.15.2. The use of the same methodology here in Illinois will not impose an undue burden on SBC Illinois.

205. Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE IC-12?

A. The Commission should adopt ATTCI's proposed language in Section 21.15.2.

206. Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.